



भारत का राजपत्र The Gazette of India

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No. 24] NEW DELHI, JUNE 12—JUNE 18, 2022, SATURDAY/ JYAISTHA 22—JYAISTHA 28, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कोयला मंत्रालय

नई दिल्ली, 14 जून, 2022

का.आ. 561.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी, भारत सरकार के कोयला मंत्रालय की अधिसूचना का. आ. संख्यांक 845, तारीख 10 दिसम्बर, 2021 के प्रकाशन पर, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 11 दिसम्बर, 2021 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) में या उस पर के सभी अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप में केन्द्रीय सरकार में निहित हो गए थे ;

और, केन्द्रीय सरकार का यह समाधान हो गया है, कि वेस्टर्न कोलफील्ड्स लिमिटेड, जिला नागपुर, महाराष्ट्र (जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित भूमि 61.49 हेक्टर (लगभग) या 151.94 एकड़ (लगभग) माप वाली उक्त भूमि में या उस पर के सभी अधिकार तारीख 11 दिसम्बर, 2021 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :—

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन और अन्य सुसंगत विधियों के अधीन यथा अवधारित सभी प्रतिकर, ब्याज, नुकसानियों और वैसे ही मदों की बाबत सभी संदाय करेगी ;
- (2) शर्त (1) के अधीन सरकारी कंपनी द्वारा संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और किसी ऐसे अधिकरण और उक्त अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपीलों आदि जैसी सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे ;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो ;
- (4) सरकारी कंपनी के पास उक्त भूमि और उक्त भूमि में इस प्रकार निहित अधिकारों को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिये जाएं या अधिरोपित किए जाएं।

[फा. सं. 43015/9/2020-एलए एण्ड आईआर]

राम शिरोमणि सरोज, उप सचिव

MINISTRY OF COAL

New Delhi, the 14th June, 2022

S.O. 561.—Whereas, on the publication of the notification of the Government of India in the Ministry of Coal, number S. O. 845, dated the 10th December, 2021, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 11th December, 2021, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and all rights in or over the lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act ;

And, whereas, the Central Government is satisfied that the Western Coalfields Limited, District Nagpur, Maharashtra (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said lands measuring 61.49 hectares (approximately) or 151.94 acres (approximately) with all rights in or over the said lands so vested, shall with effect from the 11th December, 2021

instead of continuing to so vest in the Central Government, shall vest in the Government company, subject to the following terms and conditions, namely:—

- (1) The Government company shall make all payments in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act and other relevant laws ;
- (2) A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable by the Government company under condition (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands, so vested, shall also be borne by the Government company;
- (3) The Government company shall indemnify the Central Government and its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;
- (4) The Government company shall have no power to transfer the aforesaid rights in the said lands so vested, to any other persons without the prior approval of the Central Government ; and
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/09/2020-LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

नई दिल्ली, 14 जून, 2022

का.आ. 562.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में वर्णित परिक्षेत्र की भूमि में से कोयला अभिप्राप्त किए जाने की संभावना है ;

और उक्त अनुसूची में वर्णित क्षेत्र में योजना धारक संख्या सी-1(ई)/III/एफयूआर/1221/982, तारीख 24 दिसम्बर, 2021, का निरीक्षण, वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व विभाग), कोल इस्टेट, सिविल लाईन्स, नागपुर-440 001 (महाराष्ट्र) के कार्यालय में या मुख्य महाप्रबंधक (खोज प्रभाग), केन्द्रीय खान योजना एवं डिजाइन संस्थान लिमिटेड, गोंडवाना पॅलेस, कांके रोड, रांची-834 001, झारखंड के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता - 700 001 के कार्यालय में या जिला कलेक्टर, जिला नागपुर (महाराष्ट्र) के कार्यालय में किया जा सकता है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति —

- (i) उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन की गयी किसी कार्यवाही से हुई या होने वाली संभावित किसी क्षति के लिए उक्त अधिनियम की धारा 6 के अधीन प्रतिकर का दावा कर सकेगा ;
- (ii) पूर्वक्षण अनुज्ञप्तियों के प्रभावहीन होने के संबंध में उक्त अधिनियम की धारा (13) की उप-धारा (1) के अधीन या खनन पट्टे प्रभावहीन होने के लिए उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उपधारा (1) के खंड (i) से खंड IV में विनिर्दिष्ट मदों की बाबत उपगत व्यय को दर्शित करने के लिए पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चाटों और अन्य दस्तावेजों को परिदत्त कर सकेगा,

राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन के भीतर, क्षेत्रीय महाप्रबंधक, वेस्टर्न कोलफील्ड्स लिमिटेड, उमरेर क्षेत्र, डाकघर भीवापुर, तहसील भीवापुर, जिला नागपुर, महाराष्ट्र के कार्यालय में या महाप्रबंधक, वेस्टर्न कोलफील्ड्स लिमिटेड, भूमि और राजस्व विभाग, कोल इस्टेट, सिविल लाईन्स, नागपुर - 440 001 (महाराष्ट्र) को, दावा के लिए प्रस्तुत कर सकेगा।

अनुसूची

गोकुल एक्सटेंशन ओपनकास्ट माईन

उमरेर क्षेत्र

जिला नागपुर (महाराष्ट्र)

(योजना धारक संख्या सी-1(ई)/III/एफयूआर/1221/982, तारीख 24 दिसम्बर, 2021)

क्रम सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	भूमि का वर्णन			कुल (हेक्टेयर में)	टिप्पणियां
					निजी	सरकारी	वन		
1.	खंडाझरी	41	भिवापुर	नागपुर	185.12	13.72	0.80	199.64	भाग
2.	बेसुर	41	भिवापुर	नागपुर	15.09	2.64	0.00	17.73	भाग
3.	सुकली	40	भिवापुर	नागपुर	8.93	0.16	0.00	9.09	भाग
4.	पिराया	40	भिवापुर	नागपुर	4.31	0.28	1.31	5.90	भाग
कुल :					213.45	16.80	2.11	232.36	

कुल = 232.36 हेक्टर (लगभग)

या 574.16 एकड़ (लगभग)

(1) ग्राम खंडाझरी में प्लॉट संख्यांक :

4(भाग), 5/1, 5/2, 5/3, 5/4, 6/1, 6/2, 7, 8/1, 8/2/ए/1, 8/2/ए/2, 8/2/ए/3, 8/2/बी, 8/3/ए/1, 8/3/ए/2, 8/3/बी, 8/3/सी, 8/4, 9, 10/ए/1/पी/1, 10/ए/1/पी/2, 10/ए/1/एफ / 1, 10/ए/1/एफ/2, 10/ए/1/एफ/3, 10/ए/2, 10/बी/1, 10/बी/2, 10/सी/1, 10/सी/2/बी, 10/सी/2/एल, 11, 12(भाग), 13(भाग), 14(भाग), 15/1, 15/2/1, 15/2/2, 15/2/3, 15/2/4, 16, 37(भाग), 38(भाग), 39/1, 39/2, 40, 41, 42/1, 42/2/ए, 42/2/बी, 43, 44(भाग), 60(भाग), 61(भाग), 62(भाग), 63, 64, 65(भाग), 66/ए, 66/बी, 66/सी, 67 (भाग), 68 (भाग), 69 (भाग), 70(भाग), 71(भाग), 77(भाग), 86(भाग), 88(भाग), 89, 90, 91(भाग), 92(भाग), 93, 94, 95, 96, 97, 98, 99/1, 99/2, 100/1, 100/2, 100/3, 101/1, 101/2, 102/1, 102/2, 103/1/ए, 103/1/बी, 103/2, 103/2/1, 103/2/2, 103/2/ए, 103/2/बी, 104, 105, 106(भाग), 107(भाग), 108(भाग), 151(भाग), 152 (भाग), 153, 154(भाग), 155(भाग), 156(भाग).

ग्राम खंडाझरी की सरकारी भूमि : 17, 18(भाग), रोड नाला.

ग्राम खंडाझरी की वन भूमि: 72(भाग).

(2) ग्राम बेसुर में प्लाट संख्यांक :

ग्राम बेसुर की काश्तकारी भूमि : 191(भाग), 192(भाग), 193, 194(भाग), 200(भाग), 201(भाग), 408.

सरकारी भूमि : रोड नाला.

(3) ग्राम सुकली में प्लाट संख्यांक :

ग्राम सुकली की काश्तकारी भूमि : 7(भाग), 8(भाग), 9(भाग), 20(भाग), 21(भाग), 22, 23/1/1, 23/1/2, 23/1/3, 23/1/4, 23/1/5, 23/2, 23/3, 23/4.

ग्राम सुकली की सरकारी भूमि : नाला.

(4) ग्राम पिराया में प्लाट संख्यांक :

ग्राम पिराया की काश्तकारी भूमि: 49(भाग), 50,51(भाग), 52(भाग), 53, 54.

ग्राम पिराया की सरकारी भूमि : रोड, नाला.

ग्राम पिराया की वन भूमि: 116.

सीमा वर्णन

- क - ख : रेखा ग्राम खंडाझरी में बिंदु 'क' से प्रारंभ होकर उत्तर पूर्व दिशा में प्लाट संख्या 71, 77, 92, 91, 86, 88 में से गुजरती है, नाला पार कर प्लाट संख्या 107, 108, 106 से गुजरती है, सड़क पार कर बिंदु 'ख' से मिलती है।
- ख - ग : रेखा बिन्दु 'ख' से आरंभ होकर पूर्व दिशा में प्लाट संख्या 155, 154 से गुजरती है और बिंदु 'ग' पर मिलती है।
- ग - घ : रेखा बिन्दु 'ग' से आरंभ होकर दक्षिण दिशा में प्लाट संख्या 151 की बाह्य सीमा से लगकर फिर प्लाट संख्या 152 से गुजरती है और बिन्दु 'घ' पर मिलती है।
- घ - ड.: रेखा बिन्दु 'घ' से आरंभ होकर पश्चिम दिशा में नाले के दक्षिण तट से लगकर गुजरती है और बिंदु 'ड.' पर मिलती है।
- ड. - च : रेखा बिंदु 'ड.' से आरंभ होकर पश्चिम दिशा में ग्राम खंडाझरी एवं बेसुर की उभयनिष्ठ सीमा से गुजरती है और बिंदु 'च' पर मिलती है।
- च - छ : रेखा बिंदु 'च' से आरंभ होकर दक्षिण - पश्चिम की ओर ग्राम खंडाझरी एवं बेसुर की उभयनिष्ठ सीमा से गुजरती है और बिंदु 'छ' पर मिलती है।
- छ - ज : रेखा बिन्दु 'छ' से आरंभ होकर पूर्व दिशा में ग्राम पिराया में प्लाट संख्या 116 की बाहरी सीमा से गुजरती है और बिन्दु 'ज' पर मिलती है।
- ज - झ : रेखा बिन्दु 'ज' से आरंभ होकर दक्षिण दिशा में प्लाट संख्या 116 की बाहरी सीमा से गुजरती है और ग्राम पिराया में बिन्दु 'झ' पर मिलती है।
- झ - ञ : रेखा बिन्दु 'झ' से आरंभ होकर पश्चिम दिशा में पूर्व अधिग्रहीत प्लाट संख्या 114, 115, 196/1 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'ञ' पर मिलती है।
- ञ - ट : रेखा बिंदु 'ञ' से आरंभ होकर दक्षिण दिशा में ग्राम बेसुर में प्लाट संख्या 408, 194 की बाह्य सीमा से लगकर गुजरती है और बिंदु 'ट' पर मिलती है।
- ट - ठ : रेखा बिन्दु 'ट' से आरंभ होकर दक्षिण दिशा में प्लाट संख्या 53 की बाहरी सीमा से गुजरती है और बिन्दु 'ठ' पर मिलती है।

- ठ – ड : रेखा बिन्दु 'ठ' से आरंभ होकर पूर्व दिशा में प्लॉट संख्या 54 की बाहरी सीमा से लगकर गुजरती है और बिन्दु 'ड' पर मिलती है।
- ड – ढ : रेखा बिन्दु 'ड' से आरंभ होकर दक्षिण दिशा में प्लॉट संख्या 54, 50, 49 की बाहरी सीमा से लगकर गुजरती है और बिन्दु 'ढ' पर मिलती है।
- ढ – ण : रेखा बिन्दु 'ढ' से आरंभ होकर पूर्व दिशा में नाले के तट से लगकर गुजरती है और बिन्दु 'ण' पर मिलती है।
- ण – त : रेखा बिन्दु 'ण' से आरंभ होकर दक्षिण दिशा में ग्राम सुकली में प्लॉट संख्या 23 की बाहरी सीमा से लगकर गुजरती है और बिन्दु 'त' पर मिलती है।
- त – थ : रेखा बिन्दु 'त' से आरंभ होकर पश्चिम दिशा में प्लॉट संख्या 23 की बाहरी सीमा से लगकर गुजरती हुई बिन्दु 'थ' पर मिलती है।
- थ – द : रेखा बिन्दु 'थ' से आरंभ होकर दक्षिण दिशा में प्लॉट संख्या 9, 8, 7 के (भाग) की बाहरी सीमा से लगकर गुजरती हुई बिन्दु 'द' पर मिलती है।
- द – ध : रेखा बिन्दु 'द' से आरंभ होकर पश्चिम दिशा में ग्राम सुकली में प्लॉट संख्या 7 के (भाग) की बाहरी सीमा से लगकर गुजरती हुई बिन्दु 'ध' पर मिलती है।
- ध – न : रेखा बिन्दु 'ध' से आरंभ होकर उत्तर दिशा में ग्राम सुकली में प्लॉट संख्या 7, 8, 9, 20, 21, 22 से गुजरती हुई बिन्दु 'न' पर मिलती है।
- न – प : रेखा बिन्दु 'न' से आरंभ होकर उत्तर दिशा में ग्राम पिराया में प्लॉट संख्या 49, 51, 52 से गुजरती है तथा ग्राम बेसुर में प्लॉट संख्या 201, 200 से गुजरती है और बिन्दु 'प' पर मिलती है।
- प – फ : रेखा बिन्दु 'प' से आरंभ होकर उत्तर – पश्चिम दिशा में ग्राम बेसुर में प्लॉट संख्या 194, 192, 191, 190 से गुजरती है तथा ग्राम खंडाझरी में प्लॉट संख्या 12, 13, 14 से गुजरती है और बिन्दु 'फ' पर मिलती है।
- फ – ब : रेखा बिन्दु 'फ' से आरंभ होकर उत्तर – पश्चिम दिशा में सड़क को पार करते हुये प्लॉट संख्या 18, 38, 37, 44, 62, 61 की बाहरी सीमा से लगकर गुजरती हुई बिन्दु 'ब' पर मिलती है।
- ब – भ : रेखा बिन्दु 'ब' से आरंभ होकर उत्तर – पूर्व दिशा में प्लॉट संख्या 60 और 72 की बाहरी सीमा से लगकर गुजरती हुई बिन्दु 'भ' पर मिलती है।
- भ – क : रेखा बिन्दु 'भ' से आरंभ होकर पूर्व दिशा में प्लॉट संख्या 65, 67, 68, 69 और 70 बाहरी सीमा से लगकर गुजरती हुई आरंभिक बिन्दु 'क' पर समाप्त होती है।

[फा. सं. 43015/05/2022-एलए एंड आईआर]

राम शिरोमणि सरोज, उप सचिव

New Delhi, the 14th June, 2022

S.O. 562.—Whereas, it appears to the Central Government that Coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And Whereas, the plan bearing number C-I(E)/III/FUR/1221/982, dated the 24th December, 2021, of the area described in the said Schedule can be inspected at the office of the Western Coalfields limited (Revenue Department), Coal Estate, Civil Lines, Nagpur- 440 001 (Maharashtra) or at the office of the Chief General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Palace, Kanke Road, Ranchi – 834 001, Jharkhand or at the office of the Coal Controller, 1, Council House Street, Kolkata – 700 001 or at the office of the District Collector, District Nagpur (Maharashtra);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from lands described in the said Schedule;

Any persons interested in the land described in the said Schedule may —

- (i) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act thereof ;
- (ii) claim compensation under sub-section (1) of section 13 of the said Act in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

and submit the claim to the Office of the Area General Manager, Western Coalfields Limited, Umrer Area, Post Bhivapur, Tehsil Bhivapur, District Nagpur, Maharashtra or General Manager, Western Coalfields Limited, Land and Revenue Department, Coal Estate, Civil Lines, Nagpur – 440 001 (Maharashtra) within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Gokul Extension Opencast Mine

Umrer Area

District Nagpur (Maharashtra)

[Plan bearing number C-I(E)/III/FUR/1221/982, dated the 24th December, 2021]

Serial number	Name of village	Patwari circle number	Tahsil	District	Description of land			Total (in hectares)	Remarks
					Tenancy	Government	Forest		
1.	Khandazari	41	Bhivapur	Nagpur	185.12	13.72	0.80	199.64	Part
2.	Besur	41	Bhivapur	Nagpur	15.09	2.64	0.00	17.73	Part
3.	Sukali	40	Bhivapur	Nagpur	8.93	0.16	0.00	9.09	Part
4.	Piraya	40	Bhivapur	Nagpur	4.31	0.28	1.31	5.90	Part
Total :					213.45	16.80	2.11	232.36	

Total = 232.36 hectares (approximately)

or 574.16 acres (approximately)

(1) Plot numbers in village Khandazari: 4(Part), 5/1, 5/2, 5/3, 5/4, 6/1, 6/2, 7, 8/1, 8/2/A/1, 8/2/A/2, 8/2/A/3, 8/2/B, 8/3/A/1, 8/3/A/2, 8/3/B, 8/3/C, 8/4, 9, 10/A/1/P/1, 10/A/1/P/2, 10/A/1/F/1, 10/A/1/F/2, 10/A/1/F/3, 10/A/2, 10/B/1, 10/B/2, 10/C/1, 10/C/2/V, 10/C/2/L, 11, 12(Part), 13(Part), 14(Part), 15/1, 15/2/1, 15/2/2, 15/2/3, 15/2/4, 16, 37(Part), 38(Part), 39/1, 39/2, 40, 41, 42/1, 42/2/A, 42/2/B, 43, 44(Part), 60(Part), 61(Part), 62(Part), 63, 64, 65(Part), 66/A, 66/B, 66/C, 67 (Part), 68 (Part), 69 (Part), 70(Part), 71(part), 77(Part), 86(Part), 88(Part), 89, 90, 91/1 (Part), 92(Part), 93, 94, 95, 96, 97, 98, 99/1, 99/2, 100/1, 100/2, 100/3, 101/1, 101/2, 102/1, 102/2, 103/1/A, 103/1/B, 103/2, 103/2/1, 103/2/2, 103/2/A, 103/2/B, 104, 105, 106(Part), 107 (Part), 108(Part), 151(Part), 152 (Part), 153, 154(Part), 155(Part) and 156(Part).

Government Land of Khandazari village: 17, 18(Part), Road Nalla.

Forest Land of Khandazari Village: 72(Part).

(2) Plot numbers in village Besur:

Tenancy Land of Besur village: 191(Part), 192(Part), 193, 194(Part), 200(Part), 201(Part), 408.

Government Land of Besur village: Road, Nalla.

(3) Plot numbers in village Sukali:

Tenancy Land of Sukli village: 7(Part), 8(Part), 9(Part), 20(Part), 21(Part), 22, 23/1/1, 23/1/2, 23/1/3, 23/1/4, 23/1/5, 23/2, 23/3 and 23/4.

Government land of Sukali village: Nalla.

(4) Plot numbers in village Piraya:

Tenancy land of Piraya village: 49(Part), 50,51(Part), 52(Part), 53 and 54.

Government land of Piraya village: Road, Nalla.

Forest land of Piraya village: 116.

Boundary description:

- A – B: Line starts from point 'A' in village Khandazari and passes in north east direction, through plot numbers 71,77,92, 91, 86, 88, crosses the Nalla, then passes through plot numbers 107, 108, 106 crosses the road and meets at point 'B'.
- B – C: Line starts from point 'B' and passes in east direction through plot numbers 155, 154 and meets at point 'C'.
- C – D: Line starts from point 'C' and passes in south direction along outer boundary of plot numbers 151 through plot number 152 and meets at point 'D'.
- D – E: Line starts from point 'D' and passes in the west direction along the southern bank of Nalla and meets at point 'E'.
- E – F: Line starts from point 'E' and passes in the west direction along the common boundary of village Khandazari and Besur and meets at point 'F'.
- F – G: Line starts from point 'F' and passes in south west direction along the common boundary of village Khandazari and Besur and meets at point 'G'.
- G – H: Line starts from point 'G' and passes in east direction along the outer boundary plot number 116 and meets at point 'H' in village Piraya.
- H – I: Line starts from point 'H' and passes in south direction along the outer boundary of plot number 116 and meets at point 'I' in village Piraya.
- I – J: Line starts from point 'I' and passes in west direction along the boundary of already acquired plot numbers 114, 115, 196/1 and meets at point 'J'.
- J – K: Line starts from point 'J' and passes in south direction along the outer boundary of plot numbers 408, 194 in village Besur and meets at point 'K'.
- K – L: Line starts from point 'K' and passes in south direction along the outer boundary of plot number 53 and meets at point 'L'.
- L – M: Line starts from point 'L' and passes in east direction along the outer boundary of plot number 54 and meets at point 'M'.
- M – N: Line starts from point 'M' and passes in south direction along the outer boundary of plot numbers 54, 50, 49 of and meets at point 'N'.
- N – O: Line starts from point 'N' and passes in east direction along the bank of Nalla and meets at point 'O'.
- O – P: Line starts from point O, passes in south direction along the boundary of plot number 23 in village Sukali and meets at point 'P'.
- P – Q: Line starts from point 'P', passes in west direction along the outer boundary of plot number 23 in and meets at point 'Q'.
- Q – R: Line starts from point 'Q', passes in south direction along the outer boundary of plot numbers 9,8,7 and meets at point 'R'.
- R – S: Line starts from point 'R', passes in west direction along the outer boundary of plot number 7 of village Sukali and meets at point 'S'.
- S – T: Line starts from point 'S', passes in north direction passing through part of plot numbers 7, 8, 9, 20, 21, 22 of village Sukali and meets at point 'T'.

- T – U: Line starts from point 'T', passes in north direction through plot numbers 49, 51, 52 in village Piraya then passes through plot numbers 201, 200 in village Besur and meets at point 'U'.
- U – V: Line starts from point 'U', passes in north west direction through plot numbers 194, 192, 191, 190 in village Besur, then passes through plot numbers 12, 13, 14 in village Khandazari and meets at point 'V'.
- V – W: Line starts from point 'V', passes in north west direction, crosses the road then passes through plot numbers 18, 38, 37, 44, 62, 61 and meets at point 'W'.
- W – X: Line starts from point 'W', passes in north east direction through plot numbers 60 and 72 and meets at point 'X'.
- X – A: Line starts from point 'X', passes in east direction through plot numbers 65, 67, 68, 69 and 70 and meets at starting Point 'A'.

[F. No. 43015/05/2022 -LA&IR]

RAM SHIROMANI SAROJ, Dy. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 10 जून, 2022

का.आ. 563.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या 13/2020) को प्रकाशित करती है।

[सं. एल-12011/30/2020-आईआर (बी-1)]

डी. गुहा, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th June, 2022

S.O. 563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/30/2020- IR(B-1)]

D. GUHA, Under Secy.

अनुबंध**केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर**

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

सी.जी.आई.टी. प्रकरण सं. 13/2020**Reference No. L-12011/30/2020-IR (B-I)****Dated: 28.09.2020**

प्रेसीडेंट, राजस्थान प्रदेश बैंक वर्कर्स ऑर्गेनाइजेशन, 97, पुरुषार्थ नगर,
सिंधी कॉलोनी, पाली, (राजस्थान)।

...प्रार्थी

बनाम

- मुख्य महाप्रबंधक, स्टेट बैंक ऑफ इण्डिया, एल. एच. ओ. तिलक मार्ग, जयपुर (राज.)।
- सहा. महाप्रबंधक, स्टेट बैंक ऑफ इण्डिया, रीजनल ऑफिस,
बांगड कालेज के सामने, पाली (राजस्थान)।

...अप्रार्थीगण/विपक्षी

उपस्थित:-

प्रार्थी की तरफ से : कोई उपस्थित नहीं।

अप्रार्थी की तरफ से : कोई उपस्थित नहीं।

: अधिनिर्णय :

दिनांक : 30.03.2022

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 28.09.2020 को औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :-

“Whether the demand of President, Rajasthan Pradesh Bank Workers Organization for payment of interest on account of delayed payment of leave encashment to Shri Kantilal Jain for the period from 05.08.1993 to 07.03.2020 from the management of State Bank of India is legal and justified? If yes, then to what relief the concerned employee Shri Kantilal Jain is entitled? ”

2. श्रम मंत्रालय द्वारा यह विवाद दिनांक 28.09.2020 को पंजीकृत डाक द्वारा इस अधिकरण के साथ साथ विवाद के पक्षकारों यथा प्रार्थी संगठन व विपक्षीगण को भी प्रेषित किया गया था। यह विवाद दिनांक 19.10.2020 को इस अधिकरण में प्राप्त हुआ- तथा पक्षकारों की उपसंज्ञाति व अभिवचनों की प्रतीक्षा में अबतक लंबित रहा है। आज दिनांक 30.03.2022 तक भी इस संदर्भित विवाद के अग्रसरण हेतु प्रार्थी ने अपने दावे का अभिकथन प्रस्तुत नहीं किया है। श्रम मंत्रालय द्वारा संदर्भित विवाद के संबंध में विवाद प्रस्तुत करने वाले पक्षकार (प्रार्थी) को यह निर्देश दिया गया है कि वह उक्त आदेश की प्राप्ति के 15 दिन की अवधि में अपने दावे का अभिकथन इस अधिकरण के समक्ष प्रस्तुत करे। चूंकि प्रार्थी को यह आदेश पंजीकृत डाक के माध्यम से प्रेषित किया गया है, यह उपधारित किया जाना नितांत न्यायोचित है कि- जिस प्रकार इस अधिकरण को संदर्भित आदेश 19.10.2020 को प्राप्त हो चुका है- प्रार्थी को भी यह आदेश प्राप्त हो चुका होगा।

3. इस तथ्यात्मक परिदृश्य में इस अधिकरण का यह सुविचारित अधिमत है कि प्रार्थी व विपक्षीगण के मध्य संदर्भित विवाद के अग्रसरण हेतु प्रार्थी-पक्ष अनिच्छुक व उदासीन है। इसलिए दावे के अभिकथन के अभाव में प्रार्थी संदर्भित विवाद में कोई अनुतोष पाने का अधिकारी नहीं है।

4. संदर्भित विवाद का निस्तारण इसी प्रकार किया जाता है।

5. अधिनिर्णय की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 10 जून, 2022

का.आ. 564.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानिदेशक (कार्य), सीपीडब्ल्यूडी, निर्माण भवन, नई दिल्ली, के प्रबंधतंत्र के संबद्ध नियोजकों और श्री एम. एन सिंह, द्वारा महासचिव, सीपीडब्ल्यूडी मजदूर संघ, नई दिल्ली, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 03/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 02.06.2022 को प्राप्त हुआ था।

[सं. एल-42011/107/2014-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2015) of the Central Government Industrial Tribunal-cum-Labour Court – I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director General (Works), CPWD, Nirman Bhawan, New Delhi and Shri M. N. Singh, Through The General Secretary, CPWD Mazdoor Union, New Delhi, worker which was received along with soft copy of the award by the Central Government on 02.06.2022.

[No. L-42011/107/2014-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 03/2015**Date of Passing Award- 02/06/2022****Between:**

Shri M. N. Singh,
S/o Late S.P Singh,

Through:- General Secretary,
CPWD Mazdoor Union,
Room No. 95, Barracks No. 01/10,
Jam Nagar House,
Shahjahan Road,
New Delhi-110011.

... Workman

Versus

The Director General (Works),
CPWD, Nirman Bhawan,
New Delhi-110001.

... Management

Appearances:-

Shri B.K. Prasad (A/R) : For the claimant
Shri M. K. Sharma (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of CPWD, Nirman Bhawan and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/107/2014 (IR(DU) dated 15/12/2014 to this tribunal for adjudication to the following effect.

“Whether Shri M N Singh, S/o Late S.P Singh is entitled to be regularized as Group D employee? If so from which date and what directions are necessary in this respect?”

As per the claim statement the claimant workman was appointed as a peon cum waterman in Group D post as a daily rated worker in the management w.e.f 01.03.1988 under the C and F Division of the management. However he was discharging the duty of a skilled category worker by attending the Telephone calls noting down the complaints and maintaining the diary and dispatch etc. his service was terminating from 03.1993 illegally. The claimant had approached the CGIT-2 New Delhi by filing Id Case No. 03/ of 1998. The Tribunal allowed the claim and by award dated 26.04.2004 came to hold that the termination of his service is illegal and the management has deprived him of regularization of service and payment of wage on the basis of equal pay for equal work. Thus, the tribunal by its order directed for reinstatement of the claimant in the post of Peon cum waterman as a regular employee and also directed payment of back wages at the rate of wage paid to other employees at par of the regular cadre.

The management challenged the award before the Hon'ble High Court of Delhi by filing WPC No. 6535 of 2005. The Hon'ble High Court by order dated 20.04.2007 upheld the order of the tribunal. The management then challenged the said order of the High Court by filing LPA NO. 1228 of 2007. But the same was dismissed. But the management in gross violation of the award passed and the order passed by the Hon'ble High Court did not regularize his service and the claimant superannuated w.e.f 01.12.2011. The management by order dated 11.03.2011 issued a policy for regularization of casual workers as one time measure w.e.f 11.12.2006. But the claimant was unlawfully excluded on the ground that he was a work order and contractual basis employee.

Being aggrieved the claimant again approached the Regional Labour Commissioner New Delhi who calculated the dues payable by the management to the claimant. But for the non cooperation of the management the conciliation failed. The matter was then referred by the appropriate government to consider whether the claimant is entitled to regularization of service as a group D employee and if so from which date.

When notice of the dispute was served on the management it appeared and filed written statement. In the said written statement the management pleaded that the service of the workman was terminated w.e.f 03.03.1993 and the workman approached the tribunal where a direction was given to reinstate him in service w.e.f 01.03.1988 against the post of peon cum waterman as a regular employee and pay him the arrear back wages. The Hon'ble High Court of Delhi when approached by the management who filed WPC No. 6535 of 2005 the Hon'ble High Court came to hold that the claimant is not entitled to be regularized by the order of the tribunal. However, the management is directed to treat him as a daily rated worker and regularize his service as per their policy.

On 02.12.2002 a memorandum of understanding was entered between the management and Mazdoor Union. It was decided that the service of the casual workers shall be regularized as a onetime measure w.e.f 11.12.2006. Accordingly the office order dated 11.03.2011 (exhibit MW1/2.) was issued. As per that policy the workers who are duly qualified for the post and who have worked for more than 10 years as on 11.12.2006 were to be regularized. But the claimant was not considered for regularization since he was not on the direct role of the management/ CPWD. It has further been stated by the management that for the order passed by the CGIT in Id Case No. 03/1998 the claimant workman was reinstated. But his case being a contractual employment was not considered for regularization. When the management approached the Hon'ble High Court in WPC No. 854/2012 the Hon'ble High Court stayed the order of the Labour Commissioner computing the total back wages and modified the same to 40% treating him as a daily rated worker. Then the management sought the approval of the competent authority for reinstatement into service. Though the appropriate authority approved the same the claimant filed to join yet. Thus the management has pleaded that in view of the orders passed by the Hon'ble High Court the claimant was offered to be reinstated but he did not join. Moreover, being a daily rated worker he is also not entitled to regularization as claimed by him. The management has thus, pleaded for dismissal of the claim. The claimant filed replication denying the stand of the management. He has also denied to be a daily rated worker. His one and only claim is that he was a casual employee and getting his salary as daily wager and the management for its delaying tactic deprived him of reinstatement and he attended the age of superannuation. On these rival pleadings the following issues are framed for adjudication.

ISSUES

1. Whether the claimant is entitled to be regularized in service as alleged.
2. Whether the petition is legally maintainable.

The claimant could not appear before this tribunal to testify for his ill health and hospitalization. After several adjournments made for the purpose the president of the Union representing the claimant recorded his statement. Besides the oral evidence he also filed a number of documents. On behalf of the management its executive engineer Deenbandhu Gupta testified as the management witness. He proved the office order and the policy for regularization so also the order of the Hon'ble High Court passed in WPC No. 6552 of 2012 wherein the calculation of back wages as directed by this tribunal was modified to 40%.

At the outset of the argument the Ld. A/R for the workman submitted that the management has admitted that the claimant was appointed as a daily rated worker w.e.f 01.03.1988. It is also admitted by the management that this tribunal found the termination of the claimant by the management to be illegal and directed reinstatement and regularization. However, the Hon'ble High Court modified the order of regularization and directed to consider this case when any scheme will be launched by the management for such regularization of the employees. On the other hand argument was advanced by the management to say that the Hon'ble High Court though upheld the finding of the tribunal for reinstatement of the claimant the finding was set aside in respect of the direction for regularization. The Hon'ble High Court had observed that when the management shall issue a policy for regularization of casual workers as a onetime measure the candidature of the claimant can be considered. While pointing to the evidence of MW1 and the copy of the office order marked as MW1/2 he submitted that as a matter of policy the management decided to regularize the workers in their respective category w.e.f 11.12.2006 provided the candidate qualifies the terms of recruitment and has worked for more than 10 years as on 11.12.2006. But as per the policy the persons working on the work order and contractual basis cannot be considered. Thus, the claimant was rightly left out of the zone of consideration.

FINDING

It is the stand taken by the claimant that he was appointed as a peon cum waterman in Group D post as a daily rated worker w.e.f 01.03.1988. His service was illegally terminated w.e.f 03.03.1993. The order of termination having been set aside by the tribunal it is deemed that the workman was working since 01.03.1988 and on 11.12.2006 had completed 10 years of service making himself eligible for regularization but the management illegally kept him out of the consideration. The counter evidence adduced by the management is that a proposal for the regularization of muster roll/ hand receipt casual workers of CPWD was considered for regularization as a onetime measure in consultation with the ministry of UD and DOPT. Accordingly it was decided to regularize the service of the said eligible muster roll or hand receipt casual worker w.e.f 11.12.2006. An order to that effect was issued on 11.03.2011. By filing the copy of the order which has not been disputed by the claimant the Ld. A/R for the management argued that the said order clearly shows that the steps were taken for regularization of hand receipt and muster roll workers after testing their suitability. In the said order it was made clear that the persons working on work order or contractual basis shall not be considered for the purpose. Drawing the attention of the tribunal to Para 1 of the claim statement and the testimony of WW1 he submitted that as per the admission of the workman he was appointed as daily rated worker

on work order w.e.f 01.03.1988. Thus, he is not entitled for regularization. He further argued that the claim petition and oral evidence is silent as to how the claimant fulfills the eligibility condition prescribed in the recruitment rule.

The documents filed by the claimant and marked as WW1/2 clearly negatives the stand of the claimant claiming regularization. The Ld. A/R for the claimant during argument drew the attention to exhibit WW1/1 which is the memorandum of understanding signed between the management and the union in presence of the Chief Labour Commissioner Central and argued that as per the said memorandum the management had agreed that the work order employees are daily rated workers. Hence, the denial to regularize the service of the claimant on the ground that he was a daily rated worker is illegal. But on perusal of the said memorandum marked as WW1/1, there is nothing to presume that the proposal/suggestion was carried out by the management. Thus, it is concluded that the claimant being a daily rated worker on work order was not meeting the eligibility criteria for regularization of his service and the action of the management cannot be held as illegal or wrong. Hence, ordered.

ORDER

The reference be and the same is answered against the claimant and he is held not entitled to the claim for regularization as stated in the claim petition. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 10 जून, 2022

का.आ. 565.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य निर्वाचन अधिकारी, राष्ट्रीय राजधानी क्षेत्र दिल्ली सरकार, दिल्ली के प्रबंधन के संबद्ध नियोजकों और श्रीमती सरस्वती और 8 अन्य, द्वारा दिल्ली पर्यटन विकास विभाग औद्योगिक कर्मचारी संघ, नई दिल्ली, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ संख्या 109/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-17-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 565.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/2022) of the Central Government Industrial Tribunal-cum-Labour Court – II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Electoral Officer, Government of NCT of Delhi, Delhi and Smt. Saraswati & 8 others, Through- Delhi Parshashan Vikas Vibhag Industrial Employees Union, New Delhi, worker which was received along with soft copy of the award by the Central Government on 26.05.2022.

[No. L-42025/07/2022-17-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Pronounced from Camp Court at Dehradun

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ID. NO. 109/2022**DATED:- 18.05.2022**

Smt. Saraswati & 8 others,

Through- Delhi Parshashan Vikas Vibhag Industrial Employees Union,
Aggarwal Bhawan, G.T Road, Tis Hazari, Delhi-110054.

... Claimant

Versus

The Chief Electoral Officer, Government of NCT of Delhi,
Old Stephan's College Building, Kashmere Gate,
Delhi-110054.

... Management

ORDER

This is an application filed u/s 33A of the Id Act by the complainants who are the claimants of Id 18/2022 against the management alleging that the said proceeding is now pending before this tribunal for adjudication on receipt of a reference from the appropriate government to adjudicate on the claim of the workmen for regularization of their service. The facts leading to the said industrial dispute is that pursuant to an advertisement issued by the respondent the complainants had applied for appointment to the post of Data Entry Operator. After going through a due selection procedure they were appointed as DEO in VERC. But the management engaged them on contract basis for 89 days at a time and extending the contract with one day break. The said break was only a paper work and a tactic to deprive the claimants from their lawful rights. Though, the management has the requisite approval and sanction for engagement of the workmen till March 2022 their appointments are being made for 89 days at a time with an artificial break. The work discharged by the claimants is perennial and thus, they demanded regularization of service. Since the management failed to accept the demand of the complainants and other persons standing in the same footing they raised an industrial dispute which in turn has been referred to this tribunal for adjudication. While the matter stood thus, the claimants apprehended termination and approached the Hon'ble High Court of Delhi in WPC No. 8906 of 2021 seeking an interim protection. The Hon'ble High Court disposed of the said writ petition with a direction that the service of the DEOs would not be terminated till March 2022 and their service condition would not be changed subject to satisfactory performance. Despite the said direction of the Hon'ble High Court the management initiated an action inviting bids from service providers through GEM having the effect of change in service condition of the claimants when an industrial dispute is pending between the parties. The management/respondent issued a tender under GEM by bid dated 02.03.2022 inviting bids from manpower outsourcing services to outsource the services of the complainants of the present proceeding. The complainants could know that the management has taken steps to engage them through contractor which would amount to terminate their services from the establishment of the respondent and engage them through the contractor which has the effect of change in the service condition during the pendency of an industrial dispute. Thus, they have approached this tribunal with the present application u/s 33A of the ID Act with a prayer that they being the direct employees of the management of Chief Electoral Officer and there being an industrial dispute claiming regularization of service since pending before this tribunal the management without prior permission of the tribunal cannot place their service under the contractor in violation of the provisions of section 33(1) of the Id Act. Citing the judgment of the Hon'ble Supreme Court in the case of **Jaipur Zila Shekhari Bhoomi Vikas Bank Vs. Ram Gopal Sharma and others reported in (2000) 2 SCC page 244** the complainants have stated that in absence of any application u/s 33(2)(b) of the ID Act the management cannot induct a contractor which would amount to change in their service condition pending adjudication of an industrial dispute. The complainants have thus, prayed for a direction to quash/set aside the bid no. GEM/2022/B/19999586 dated 02.03.2022 and direct the management of Chief Electoral Officer to refrain from violating section 33 of the Id Act during the pendency of the Industrial dispute.

Being noticed the respondent appeared, filed written reply alongwith the documents. Argument was heard being advanced by the Ld. A/R for both the parties.

The Ld. A/R for the complainants by placing reliance in the case of Jaipur Zila referred supra submitted that the conditions laid down u/s 33 of the Id Act are to be mandatorily complied and any contravention entails punishment u/s 31(1) of the Act. Since, no application u/s 33 was made by the management before inviting the bid for engaging the complainants through the contractor the same amounts to change in service condition, and the action is liable to be quashed. He has also placed reliance in the case of **Top Security limited vs. Subash Chander Jha (2013)**

136 FLR 17 (DEL) to argue that when no application seeking approval u/s 33(2)(b) of the Act is made by the employer, the employee may make a complaint u/s 33A. He thus, argued that the complainants when engaged after a due selection process directly under the management and claiming regularization, the move of the management for bringing in the contractor amounts to change of service condition and in violation of the provisions of section 33 of the Id Act.

In his reply the Ld. A/R for the management raised objection on the ground of maintainability as well as on the legality of the submissions made by the complainants. The first objection taken is that the complainants have been engaged as DEOs under the District Election Office of NCT Delhi. Hence, this tribunal lacks the jurisdiction of entertaining the application. In reply the Ld. A/R for the claimant/complainants relying upon the judgment of **Municipal Corporation of Delhi vs. Mahavir and another Civil Writ petition 2785 of 2000** decided by the Hon'ble High Court of Delhi argued that Delhi being the Union Territory is to be administered by the President and any administrator appointed is the delegate of the president and thus, the union territory does not qualify the description of a State Government and therefore the Central Government is the appropriate government. The argument as advanced by the Ld. A/R for the complainants supported by the judgment referred supra leads to a conclusion that for adjudication of the dispute Central government is the appropriate government and this tribunal has the jurisdiction to adjudicate upon the same.

The other argument advanced by the Ld. A/R for the management is that the department of Information and Technology Government of Delhi issued a letter dated 27.05.2021 referring to General Finance Rule 2017 to the respondent. According to this rule it is mandatory to procure all goods and services from Government e-market in accordance to Rule 149 of GFR 2017. In compliance thereto the Chief Election Officer of Delhi issued the letter dated 02.06.2021 to all the District Election Offices for taking action to hire the service of the DEO through a vendor selected through GEM complying the provisions of Rule 149 of GFR on or before 30.06.2021. In the meeting held on 11.08.2021 it was decided that expeditious step in this regard shall be taken. The petitioners and persons standing in the similar footing through various writ petitions approached the Hon'ble High Court of Delhi challenging the procurement of DEOs through a contractor from the GEM Portal. The DEOs who were appointed on contractual basis for 89 days also approached the High Court in the said writ petition. The Hon'ble High Court after hearing the parties passed an order on 25.08.2021 in WPC No. 8498 of 2021 and other connected matters holding that the claim of the DEOs that the contractor cannot be changed is not tenable in as much as the same could impede the working of various departments and also prevent the departments from engaging in competitive bidding. Since, the NIT clearly shows that the existing DEOs are not being replaced and one of the condition of the tender is that all the existing DEOs have to be continued and the management clarified that the wage etc of the existing DEOs since has been prescribed there would be no change in the same due to the NIT.

Basing on this observation of the Hon'ble High Court the Ld. A/R for the management submitted that the complainants are basically the contractual employees working in the premises of the management. Since a policy decision has been taken by the government for outsourcing the goods and services through GEM, the bid has been invited. But all the precautions and safeguards have been provided to maintain the statusquo of the employment and salary of the complainants. The only proposed change is that their contractual service shall be placed under the contractor instead of the respondent which is consequent upon the policy decision of the government. He also argued that the Hon'ble High Court of Delhi while passing the order dated 25th August 2021 in WPC No. 8498 of 2021 and other connected matters have clearly held that the claimants who are basically the contractual employees cannot be said to have any inherent right to claim that the contractor cannot be brought in nor their service can be placed under the contractor. The Ld. Counsel for the respondent further argued that the Hon'ble High Court in the said order have clearly held that the respective departments are free to proceed in accordance with the law to obtain the services of the DEOs from the GEM Portal.

From the submissions made by the Ld. A/R for both the parties the admitted position which emerged is that the respondent pursuant to issue of an advertisement and through a selection process had appointed the complainants of this proceeding as DEO and the respondent has a sanction to continue their employment till March 2022. The complainants were appointed as contractual employees. Now the grievance of the complainants is that the respondent by introducing the contractors is trying to place their service under the contractor which amounts to change in service condition and the management if would not be restrained from doing so their claim in the other proceeding claiming regularization would become infructuous and this action of the management is violative of section 33 of the Id Act. Thus, the precise question to be decided is if invitation of bids from the contractor and to employee the complainants through the contractor would amount to change in service condition of the complainants.

The Judgment of the Apex Court relied by the workmen has been passed by a five judge bench of Hon'ble Supreme Court wherein the object behind enacting section 33 of the Id Act after the amendment has been discussed and in Para 6 of the judgment it has been observed that section 33 was amended in 1956 permitting the employer to make changes in the service, or to discharge or dismiss an employee in relation to matters not connected with the pending industrial disputes.

At the same time the amendment provides safeguard for a workman who may be discharged or dismissed. In the said judgment the Hon'ble Apex Court have further held that when no application is made u/s 33 (2)(b) seeking approval, it is a clear case of contravention of the said provision and such order of contravention need to be corrected by exercise of the power vested u/s 33 of the ID Act.

In the instant case admittedly one industrial dispute is pending concerning the complainant and the management and no permission or approval has been sought by the employer in terms of section 33(2)(b). But the respondent employer has submitted that the complainants should not have any apprehension in respect of their engagement in as much as the NITs issued clearly stipulate that the existing DEOs would not be replaced and the pay scale has been prescribed their under. Here is a situation where a management is inviting bids through GEM Portal which is the mandate of GFR2017 pursuant to a policy decision taken by the government. The complainants in view of their direct contractual appointment by the management are apprehending change in their service condition if their service would be placed under the contractor/vendor. The Hon'ble High Court of Delhi while passing order in WPC No. 8498/2021 have already held the complainants being the contractual employees cannot have the inherent right to claim that the contractor cannot be changed. Considering all aspects of the matter this tribunal is of the view that the complainants working as contractual employees under the respondent when shifted as the employees under the contractor/ service provider procured through GEM and when there would be continuity of their service with the wage they are presently getting, the action would not amount to change of service condition. Any direction to the respondent to refrain from inviting the bid of the service provider through GEM would stand opposed to the policy decision of the government aimed at proper governance. Hence without prejudice to the claim of the complainants raised in Id No. 18/22 the petition filed u/s 33A is rejected in as much as no direction can be given to the respondent to stop the bidding pursuant to the direction of the government. However, the respondent, in view of the pending Industrial dispute between the complainants and respondent is directed to ensure the continuance of their service with the protection of wage and other benefits they are getting under the management till final adjudication of Id No. 18/22. This order is without prejudice to the interest of either party of this proceeding. The application filed u/s 33A is accordingly disposed of.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

S. No.	Name of the workmen	Designation
1.	Saraswati	DEO
2.	Arun	DEO
3.	Ashwani Kumar	DEO
4.	Prashant Kumar	DEO
5.	Sonu	DEO
6.	Satpal	DEO
7.	Hemlata	DEO
8.	Bir Singh	DEO
9.	Vipin Kumar Yadav	DEO

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 10 जून, 2022

का.आ. 566.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य निर्वाचन अधिकारी, राष्ट्रीय राजधानी क्षेत्र दिल्ली सरकार, दिल्ली के प्रबंधन के संबद्ध नियोजकों और श्री अरुण और श्रीमती पायल, द्वारा दिल्ली पर्यटन विकास विभाग औद्योगिक कर्मचारी संघ, नई दिल्ली, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ संख्या 110/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.05.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-18-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2022) of the Central Government Industrial Tribunal-cum-Labour Court – II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Electoral Officer, Government of NCT of Delhi, Delhi and Shri Arun & Smt. Payal, Through- Delhi Parshashan Vikas Vibhag Industrial Employees Union, New Delhi, worker which was received along with soft copy of the award by the Central Government on 26.05.2022.

[No. L-42025/07/2022-18-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI****Pronounced from Camp Court at Dehradun**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

ID. NO. 110/2022**DATED:- 18.05.2022**

Shri Arun & Smt. Payal,
Through- Delhi Parshashan Vikas Vibhag Industrial Employees Union,
Aggarwal Bhawan, G.T Road, Tis Hazari, Delhi-110054.

...Claimant

Versus

The Chief Electoral Officer, Government of NCT of Delhi,
Old Stephan's College Building, Kashmere Gate,
Delhi-110054.

...Management

ORDER

This is an application filed u/s 33A of the Id Act by the complainants who are the claimants of Id 20/22 against the management alleging that the said proceeding is now pending before this tribunal for adjudication on receipt of a reference from the appropriate government to adjudicate on the claim of the workmen for regularization of their service. The facts leading to the said industrial dispute is that pursuant to an advertisement issued by the respondent the complainants had applied for appointment to the post of Data Entry Operator. After going through a due selection procedure they were appointed as DEO in VERC. But the management engaged them on contract basis for 89 days at a time and extending the contract with one day break. The said break was only a paper work and a tactic to deprive the claimants from their lawful rights. Though, the management has the requisite approval and sanction for engagement of the workmen till March 2022 their appointments are being made for 89 days at a time with an artificial break. The work discharged by the claimants is perennial and thus, they demanded regularization of service. Since the management failed to accept the demand of the complainants and other persons standing in the same footing they raised an industrial dispute which in turn has been referred to this tribunal for adjudication. While the matter stood thus, the claimants apprehended termination and approached the Hon'ble High Court of Delhi in WPC No. 8906 of 2021 seeking an interim protection. The Hon'ble High Court disposed of the said writ petition with a direction that the service of the DEOs would not be terminated till March 2022 and their service condition would not be changed subject to satisfactory performance. Despite the said direction of the Hon'ble High Court the management initiated an action inviting bids from service providers through GEM having the effect of change in service condition of the claimants when an industrial dispute is pending between the parties. The management/respondent issued a tender under GEM by bid dated 02.03.2022 inviting bids from manpower outsourcing services to outsource the services of the complainants of the present proceeding. The complainants could know that the management has taken steps to engage them through contractor which would amount to terminate their services from the establishment of the respondent and engage them through the contractor which has the effect of change in the service condition during the pendency of an industrial dispute. Thus, they have approached this tribunal with the present application u/s 33A of the ID Act with a prayer that they being the direct employees of the management of Chief Electoral Officer and there being an industrial dispute claiming regularization of service since pending before this tribunal the management without prior permission of the tribunal cannot place their service under the contractor in violation of the provisions of section 33(1) of the Id Act. Citing the judgment of the Hon'ble Supreme Court in the case of **Jaipur Zila Shekhari Bhoomi Vikas Bank Vs. Ram Gopal Sharma and others reported in (2000) 2 SCC page 244** the complainants have stated that in absence of any application u/s 33(2)(b) of the ID Act the management cannot induct a contractor which would amount to change in their service condition pending adjudication of an industrial dispute. The complainants have thus, prayed for a direction to quash/set aside the bid no. GEM/2022/B/19999586 dated 02.03.2022

and direct the management of Chief Electoral Officer to refrain from violating section 33 of the Id Act during the pendency of the Industrial dispute.

Being noticed the respondent appeared, filed written reply alongwith the documents. Argument was heard being advanced by the Ld. A/R for both the parties.

The Ld. A/R for the complainants by placing reliance in the case of Jaipur Zila referred supra submitted that the conditions laid down u/s 33 of the Id Act are to be mandatorily complied and any contravention entails punishment u/s 31(1) of the Act. Since, no application u/s 33 was made by the management before inviting the bid for engaging the complainants through the contractor the same amounts to change in service condition, and the action is liable to be quashed. He has also placed reliance in the case of **Top Security limited vs. Subash Chander Jha (2013) 136 FLR 17 (DEL)** to argue that when no application seeking approval u/s 33(2)(b) of the Act is made by the employer, the employee may make a complaint u/s 33A. He thus, argued that the complainants when engaged after a due selection process directly under the management and claiming regularization, the move of the management for bringing in the contractor amounts to change of service condition and in violation of the provisions of section 33 of the Id Act.

In his reply the Ld. A/R for the management raised objection on the ground of maintainability as well as on the legality of the submissions made by the complainants. The first objection taken is that the complainants have been engaged as DEOs under the District Election Office of NCT Delhi. Hence, this tribunal lacks the jurisdiction of entertaining the application. In reply the Ld. A/R for the claimant/complainants relying upon the judgment of **Municipal Corporation of Delhi vs. Mahavir and another Civil Writ petition 2785 of 2000** decided by the Hon'ble High Court of Delhi argued that Delhi being the Union Territory is to be administered by the President and any administrator appointed is the delegate of the president and thus, the union territory does not qualify the description of a State Government and therefore the Central Government is the appropriate government. The argument as advanced by the Ld. A/R for the complainants supported by the judgment referred supra leads to a conclusion that for adjudication of the dispute Central government is the appropriate government and this tribunal has the jurisdiction to adjudicate upon the same.

The other argument advanced by the Ld. A/R for the management is that the department of Information and Technology Government of Delhi issued a letter dated 27.05.2021 referring to General Finance Rule 2017 to the respondent. According to this rule it is mandatory to procure all goods and services from Government e-market in accordance to Rule 149 of GFR 2017. In compliance thereto the Chief Election Officer of Delhi issued the letter dated 02.06.2021 to all the District Election Offices for taking action to hire the service of the DEO through a vendor selected through GEM complying the provisions of Rule 149 of GFR on or before 30.06.2021. In the meeting held on 11.08.2021 it was decided that expeditious step in this regard shall be taken. The petitioners and persons standing in the similar footing through various writ petitions approached the Hon'ble High Court of Delhi challenging the procurement of DEOs through a contractor from the GEM Portal. The DEOs who were appointed on contractual basis for 89 days also approached the High Court in the said writ petition. The Hon'ble High Court after hearing the parties passed an order on 25.08.2021 in WPC No. 8498 of 2021 and other connected matters holding that the claim of the DEOs that the contractor cannot be changed is not tenable in as much as the same could impede the working of various departments and also prevent the departments from engaging in competitive bidding. Since, the NIT clearly shows that the existing DEOs are not being replaced and one of the condition of the tender is that all the existing DEOs have to be continued and the management clarified that the wage etc of the existing DEOs since has been prescribed there would be no change in the same due to the NIT.

Basing on this observation of the Hon'ble High Court the Ld. A/R for the management submitted that the complainants are basically the contractual employees working in the premises of the management. Since a policy decision has been taken by the government for outsourcing the goods and services through GEM, the bid has been invited. But all the precautions and safeguards have been provided to maintain the statusquo of the employment and salary of the complainants. The only proposed change is that their contractual service shall be placed under the contractor instead of the respondent which is consequent upon the policy decision of the government. He also argued that the Hon'ble High Court of Delhi while passing the order dated 25th August 2021 in WPC No. 8498 of 2021 and other connected matters have clearly held that the claimants who are basically the contractual employees cannot be said to have any inherent right to claim that the contractor cannot be brought in nor their service can be placed under the contractor. The Ld. Counsel for the respondent further argued that the Hon'ble High Court in the said order have clearly held that the respective departments are free to proceed in accordance with the law to obtain the services of the DEOs from the GEM Portal.

From the submissions made by the Ld. A/R for both the parties the admitted position which emerged is that the respondent pursuant to issue of an advertisement and through a selection process had appointed the complainants of this proceeding as DEO and the respondent has a sanction to continue their employment till March 2022. The complainants were appointed as contractual employees. Now the grievance of the complainants is that the respondent by introducing the contractors is trying to place their service under the contractor which amounts to change in service condition and the management if would not be restrained from doing so their claim in the other proceeding claiming

regularization would become infructuous and this action of the management is violative of section 33 of the Id Act. Thus, the precise question to be decided is if invitation of bids from the contractor and to employee the complainants through the contractor would amount to change in service condition of the complainants.

The Judgment of the Apex Court relied by the workmen has been passed by a five judge bench of Hon'ble Supreme Court wherein the object behind enacting section 33 of the Id Act after the amendment has been discussed and in Para 6 of the judgment it has been observed that section 33 was amended in 1956 permitting the employer to make changes in the service, or to discharge or dismiss an employee in relation to matters not connected with the pending industrial disputes.

At the same time the amendment provides safeguard for a workman who may be discharged or dismissed. In the said judgment the Hon'ble Apex Court have further held that when no application is made u/s 33 (2)(b) seeking approval, it is a clear case of contravention of the said provision and such order of contravention need to be corrected by exercise of the power vested u/s 33 of the ID Act.

In the instant case admittedly one industrial dispute is pending concerning the complainant and the management and no permission or approval has been sought by the employer in terms of section 33(2)(b). But the respondent employer has submitted that the complainants should not have any apprehension in respect of their engagement in as much as the NITs issued clearly stipulate that the existing DEOs would not be replaced and the pay scale has been prescribed their under. Here is a situation where a management is inviting bids through GEM Portal which is the mandate of GFR2017 pursuant to a policy decision taken by the government. The complainants in view of their direct contractual appointment by the management are apprehending change in their service condition if their service would be placed under the contractor/vendor. The Hon'ble High Court of Delhi while passing order in WPC No. 8498/2021 have already held the complainants being the contractual employees cannot have the inherent right to claim that the contractor cannot be changed. Considering all aspects of the matter this tribunal is of the view that the complainants working as contractual employees under the respondent when shifted as the employees under the contractor/ service provider procured through GEM and when there would be continuity of their service with the wage they are presently getting, the action would not amount to change of service condition. Any direction to the respondent to refrain from inviting the bid of the service provider through GEM would stand opposed to the policy decision of the government aimed at proper governance. Hence without prejudice to the claim of the complainants raised in Id No. 20/22 the petition filed u/s 33A is rejected in as much as no direction can be given to the respondent to stop the bidding pursuant to the direction of the government. However, the respondent, in view of the pending Industrial dispute between the complainants and respondent is directed to ensure the continuance of their service with the protection of wage and other benefits they are getting under the management till final adjudication of Id No. 20/22. This order is without prejudice to the interest of either party of this proceeding. The application filed u/s 33A is accordingly disposed of.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 10 जून, 2022

का.आ. 567.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, दिल्ली नगर निगम (दक्षिण), दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री अशोक, द्वारा महासचिव, नगरपालिका कर्मचारी संघ, नई दिल्ली, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 130/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06.06.2022 को प्राप्त हुआ था।

[सं. एल-42011/31/2015-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 567.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 130/2015) of the Central Government Industrial Tribunal-cum-Labour Court – I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, Municipal Corporation of Delhi (South), Delhi and Shri Ashok, Through The General Secretary, Municipal Employees Union, New Delhi, worker which was received along with soft copy of the award by the Central Government on 06.06.2022.

[No. L-42011/31/2015 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 130/2015

Date of Passing Award- 26.05.2022

Between:

Shri Ashok,
S/o Hari Chand,
C/o General Secretary, Municipal Employees Union,
Agarwal Bhawan, G.T Road,
Tis Hazari,
New Delhi-110054.

... Workman

Versus

The Commissioner,
Municipal Corporation of Delhi (South)
Dr. S.P Mukherjee Civic Centre, J.L Nehru Marg,
Delhi-110002.

...Management

Appearances:-

Shri Rajiv Agarwal (A/R) : For the claimant

Shri Rajiv Bhardwaj (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Municipal Corporation of Delhi, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/31/2015 (IR(DU)) dated 13/05/2015 to this tribunal for adjudication to the following effect.

“Whether the action of the management of MCD in not regularizing the employment of Ashok Kumar on the post of ward boy with retrospective effect from the initial date of his joining into the employment i.e April 2001 is illegal and unjustified and whether the said workman is entitled to receive consequential benefits on the principle of Equal pay for equal work from his date of initial appointment i.e. April 2001? Yes what relief the workman is entitled to.”

In the claim petition the claimant has stated that he was appointed as a ward boy in the establishment of the management in the month of April 2001 as a daily wage employee and his initial place of posting was in Najafgarh Zone. Subsequently he was transferred to different places and asked to work in the maternity centre, dispensary and hospital etc under the management. He has rendered continuous service to the management except for 6-7 months in the year 2006 on account of his own health issues. But the management never considered to regularize his service though he was working against a permanent post and there was vacancy for the said post in the management. The claimants demand for regularization and equal pay for equal work was never considered by the management which amounts to unfair labour practice. The management on the contrary regularized the service of persons working in the muster roll and junior to him. The action of the management in continuing the workman to work as a casual and temporary employee for years and thereby depriving him of his legitimate rights was discriminatory. A demand notice dated 14.04.2010 was served by the claimant on the management. But no reply to the same was ever given. The claimant raised a dispute before the conciliation officer but for the non cooperative attitude of the management the conciliation failed. The appropriate government then referred the matter to this tribunal for adjudication in terms of the reference.

Being noticed the management appeared and filed written statement denying the claim of the claimant. The specific stand taken by the management is that it has its own policy for regularizing the service of the daily wager and muster roll employees in phased manner. The said regularization is subject to availability of post, fund, and in accordance to the seniority. There is no provision for regularizing the service of the daily wager from the initial date of engagement. The persons who have continuously worked for 240 days or more in the calendar years are usually considered. The claimant was an in disciplined employee and very irregular, irresponsible and used to remain absent without prior intimation or permission of the management. Thus, when other persons were considered for regularization the claimant was left out for the unsatisfactory track record. With regard to the claim of the claimant for equal pay at par with the regular employees the management by citing the judgment of the Hon'ble Supreme Court in the case of **State of Haryana vs. Jasmer Singh (1996) 11SCC77** have pleaded that the Hon'ble Supreme Court have clearly held that the persons employed on daily wage cannot be treated at par with the persons on regular service as the daily wagers are not required to possess the qualification required for regular workers. The claimant of this proceeding was paid wage as per the minimum wage declared time to time by the appropriate government. Citing the judgment in the case of **Secretary State of Karnatak vs. Uma Devi** management has pleaded that the court cannot impose on a state a financial burden by insisting on regularization of the persons employed temporarily. Thereby the management has challenged the maintainability of the proceeding. The management has also denied the claim of the claimant that by working for 240 days in a calendar year he is entitled to the status of the permanent employee.

The claimant filed rejoinder to the WS of the management stating that the demand notice was served on the management on 14.04.2010. But the management never filed any reply to the same. It has also been stated that the management had earlier regularized the service of the Muster Roll Employees from the date of their initial engagement. Relying on the judgment of the Hon'ble Supreme Court in the case of **ONGC Limited vs. Petroleum Coal Labour Union and others (2015) II LJ 2057 SC** the claimant has stated that when a casual worker has completed 240 days in continuous service he is entitled to regularization. Since, the claimant has worked for more than 240 days in the preceding calendar year the management should have regularized his service. Instead the management has meted unfair labour practice by not considering his candidature for the same.

On these rival pleadings the following issues are framed for adjudication.

ISSUES

1. Whether the reference is not legally maintainable in view of the various preliminary objections.
2. In terms of reference.

The claimant testified as WW1 and filed a series of document marked as WW1/1 to WW1/10. The said documents include demand notice the office order dated 20.04.2001 issued by the management transferring him to Najafgarh the office order transferring him to Hindu Rao Hospital and other places. He has also filed the copy of the espousal resolution and the claim petition filed before the Labour Commissioner. The General Secretary of Municipal Employees Union testified as WW2 to prove the fact of espousal. Both the witnesses were cross examined at length by the management. On behalf of the management the Deputy Director Hospital Administration testified as MW1 and proved the documents marked as MW1/1 to MW1/3. These documents include the resolution of the management dated 27.06.1988 wherein it was decided to regularize the service of the persons engaged on daily wage/muster roll prospectively subject to the availability of the post and the nature of the work with regard to a particular financial year. She has also proved the copy of the circular dated 23.02.2007 wherein it was decided that the criteria for calculation of 240 days of continuous service shall be considered for regularization of a person. The calculation sheet showing the work done by the claimant month wise has also been filed.

At the outset of the argument the Ld. A/R for the claimant submitted that the judgment of the Hon'ble Supreme Court in the case of Uma devi referred supra has no applicability in the Industrial Adjudication. Relying upon the judgment of **Maharashtra State Road Transport and Another vs. Casteribe Rajya Parivahan Karamchari Sangathan reported in (2009)8 SCC Page 556** and **Shri Ajay Pal Singh vs. Haryana Warehousing Corporation decided in Civil appeal No. 6327 of 2014** he submitted that the Hon'ble Supreme Court have clearly held that the effect of the judgment passed by the constitution bench in the case of Uma Devi cannot over ride the powers of Industrial and Labour Courts once unfair labour practice on the part of the employer is established. The judgment of Uma Devi does not denude the industrial and labour courts of their statutory power. In reply the Ld. A/R for the management counter argued that the management has a policy of regularizing the daily wagers and muster roll employees in a phased manner and the claimant since could not meet the prescribed criteria was not considered for regularization. The same cannot be termed as unfair labour practice.

FINDINGS

Both the issues framed being interlinked are taken up for consideration together. It is the grievance of the claimant that he is working as a ward boy for the management from April 2001 and continuing as such. He is not being granted the minimum wage or the wage at par with the salary of the regular ward boys. Since, he raised demand for his legitimate claims the management made him a victim of non regularization. To support the oral testimony that he is employed since April 2001 the copies of his transfer letters to different places in the management have been filed. The management while filing WS has admitted that the claimant was appointed as a daily wager and continuing as such. The only explanation with regard to his non regularization offered by the management is that he is an irregular and irresponsible employee and for that reason his candidature for regularization was not considered. Whereas the claimant has taken the name of some of the employees regularized in the meantime who were standing in the same footing as of the claimant the management has admitted the same. But surprisingly no evidence has been adduced by the management to prove how the claimant could not meet the eligibility criteria for regularization. The law provides that a party asserting the existence or non existence of a particular fact bears the responsibility of proving the same. But in this case the management has not adduced any evidence at all to prove that the claimant for his indisciplined attitude was not considered for regularization.

The Ld. A/R for the claimant since disputed the criteria of 240 days as a condition precedent for regularization, the Ld. A/R for the management drew the attention of the tribunal to the document marked as MW1/1 (colly) which is a circular dated 23.02.2007. As per this circular the Chief Labour Welfare Officer of the management has clarified that 12 calendar months from the initial date of engagement of daily wagers may be considered for calculation of 240 days in a year to compute the continuous service in a year for daily wager. The Ld. A/R for the management further drew the attention of the tribunal to the photocopy of a document which appears to be an excel sheet prepared indicating the days of work discharged month wise by the claimant in a calendar year. But no copy of the attendance register or any register containing primary evidence in this regard has been filed. Hence, these documents cannot be accepted to hold that the candidature of the claimant for regularization was not considered solely for the reason that he had not worked for 240 days in the calendar years since the date of his initial engagement and till the other persons were considered for regularization. The witness examined on behalf of the management, during cross examination has admitted that the claimant is working against the vacant post of ward boy and there is no complaint ever received with regard to his conduct. She has further stated that except for 6 to 7 months in the year 2006 the claimant had worked continuously and the said absence of 6 to 7 months was on account of his illness. She has further admitted that the management has its own policy to regularize the daily wagers and casual employees. The ward boys who had joined the management between 01.04.2000 to 31.03.2003 have been regularized w.e.f 01.04.2006, since they had completed 240 days of work in a calendar year. The evidence on record nowhere shows that the claimant had not worked for 240 days in the years preceding to his claim. In Para 6 of the affidavit the management witness has stated the number of days the claimant had worked during the period 2001 to 2016. As seen except for the financial year 2005-2006 and 2006-2007 he had worked for more than 240 days in each year preceding to 2006 when his counter parts were regularized. The evidence of the management witness is self explanatory that in the year 2005-2006 the claimant was absent for sometime on account of his illness. Thus, from the evidence adduced by the management witness, the stand of the management that the claimant was not regularized since he had not completed 240 days of work in a year as prescribed under the circular stands disproved.

Now it is to be seen if the claimant was subjected to unfair labor practice and what remedy is available to him. **Unfair labour practice** as defined u/s 2(ra) means any of the practice specified in the 5th Schedule of the ID Act. Under the said V Schedule to employ the workman as Badli, casual or temporary and to continue him as such for years with the object of depriving him of the status and privilege of permanent workman amounts to unfair labour practice. In this case from the documents filed by the management it is clearly evident that the claimant is working in different places and healthcare centers run by the management since the year 2001 but his candidature was never considered to confer the permanent status on him. The management in utter disregard of law deprived him of his legitimate rights which amounts to unfair labour practice.

Though the Ld. Counsel for the management on the basis of the judgment of Uma Devi referred supra argued that the claimant cannot claim regularization as a matter of right and the management having a policy for the same reserves the right of considering the candidature of an individual workman the same does not sound convincing. Though, in the case of Uma Devi the Hon'ble Supreme Court have held that the persons who were appointed on temporary and casual basis without following proper procedure cannot claim absorption or regularization since the same is opposed to the policy of public employment the Hon'ble Supreme Court in the case of Maharashtra Road

Transport and Ajay Pal Singh referred supra have again taken a view that the judgment of Uma Devi is not applicable to the industrial adjudication.

Now it is to be considered what relief the claimant is entitled to. In the claim petition the claimant has prayed for regularization from the date of his initial appointment. The management has disputed the same on the ground that regularization is subject to availability of post, fund, and eligibility of the workman. A resolution of the management has been filed and marked as MW1/1. This resolution dated 27.06.1988 clearly prescribes that the regularization of persons engaged on daily wage/Muster Roll is to be done prospectively keeping in view the budget provision and on the basis of actual requirement of work. The management witness Dr. Alka Gupta during cross examination has stated that the similarly situated ward boys who joined the employment of the management between 01.04.2006 to 31.03.2003 were regularized w.e.f 01.04.2006 i.e. from the beginning of the financial year. The claimant of this proceeding had joined the employment of the management in the month of April 2001. As stated in the preceding paragraph he had also worked for 240 days or more in the calendar years preceding to 2006 making himself eligible for regularization. But for reasons best known to the management he was left out of the consideration and was treated in a discriminatory manner which amounts to unfair labour practice.

The said unfair labour practice can only be remedied by regularizing the claimant against the post of ward boy w.e.f 01.04.2006. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the claimant to the extent that he is entitled to regularization of his service in the post of ward boy w.e.f 01.04.2006 and to receive the consequential pay scale and other service benefit attached to the post. The management is directed to regularize the service of the claimant as directed above within 3 months from the date of publication of the award and release his financial benefit due to him including the arrear salary w.e.f 01.04.2006 without interest failing which the accrued financial benefit shall carry interest @9% per annum from 01.04.2006 and till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 10 जून, 2022

का.आ. 568.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधन, अशोक होटल, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सचिन चौहान, द्वारा अध्यक्ष, अशोक होटल मजदूर जनता यूनियन, नई दिल्ली, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 253/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 02.06.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-16-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 253/2018) of the Central Government Industrial Tribunal-cum-Labour Court – I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Management of Ashok Hotel, New Delhi and Shri Sachin Chauhan, Through The President Ashok Hotel Mazdoor Janta Union, New Delhi, worker which was received along with soft copy of the award by the Central Government on 02.06.2022.

[No. L-42025/07/2022-16-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, NEW DELHI**

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 253/2018**Date of Passing Award- 02/06/2022****Between:**

Shri Sachin Chauhan,
S/o Late Shri Rajesh Chauhan,

Through:- S. S Upadhayay,
President Ashok Hotel Mazdoor Janta Union,
Ashok Hotel Staff Qtr No. C-47, Chanakya Puri,
New Delhi-110021.

...Workman

Versus

The Management of Ashok Hotel,
50-B, Chanakya Puri,
New Delhi-110021.

...Management

Appearances:-

Shri S.S. Upadhayay (A/R) : For the claimant

None for the management (A/R) : For the Management

AWARD

This is a complaint filed by the claimant seeking a direction to the management to treat him to be on duty grant continuity of service and back wages w.e.f 29.04.2007.

The claimant in this petition has stated that he was working in the management as the Coffee Shop waiter since 01.09.2009. The management of Ashoka Hotel was not granting him the pay scale at par with the regular employees. Thus, he had approached the Ashoka Hotel Mazdoor Janta Union for advancing the claim of regularization of service with regular pay scale etc. The union filed a statement of claim before the Regional Labour Commissioner (Central) Delhi. A conciliation was taken up and the commissioner referred the matter to the appropriate government for onward reference to the Central Government Industrial Tribunal. While the matter stood thus, and when the matter was pending before the Ministry of Labour the management in gross violation of section 33 of the Id Act terminated his service by letter dated 08.05.2017. The claim of the present claimant was in serial No. 28 of the claim filed before the Labour Commissioner. The claimant was working in the Coffee Shop in the management from the date of his initial appointment and till the termination under the direct supervision and control of the officials of Ashoka Hotel. As per Ashoka Hotel certified standing order the claimant is entitled for regularization of service when he completes 12 months of work continuously. The management of Ashoka Hotel instead of regularizing the service and in order to deprive him of his legitimate rights has introduced a contractor which is a sham contract and paying the wage through the said contractor. Hence, in this application the claimant has stated that the order of termination since has been passed during the pendency of an industrial dispute the same is nonest and the management be directed to take him into service from the date of termination accept the continuity of his service and pay him the full back wage.

Notice was served on the management. The A/R for the management had appeared on 30.11.2018 and prayed for adjournment to file WS. ON that day the copy of the claim statement was supplied to him and time was allowed. Thereafter 7 adjournments were allowed for the purpose. Since, no WS was filed by order dated 12th February 2020 the management was proceeded exparte and the exparte evidence was recorded.

The claimant examined himself as WW1 and filed a number of documents marked in a series of WW1/1 to WW1/20. These documents include the certificate of participation of the claimant in the training programs conduct by the management the salary slip of different months the duty pass, security pass, and the representations made from time to time demanding regularization of service. These documents have been filed to prove that the claimant was working under the management under their control and supervision. The witness was not cross examined.

During course of argument the Ld. A/R for the management by citing the judgment of the Hon'ble Supreme Court in the case of **Jaipur Zila Sahakari Bhoomi Vikas Bank Limited vs. Ram Gopal Sharma and others** and in the case of **Kanpur Electricity Supply co. Ltd. vs. Shamino Mirza 2009LLR 226 (SC)** argued that when the

management having knowledge about the pendency of the Industrial dispute terminates the service of the workman in clear violation of section 33 of the Id Act and the proceeding is initiated in terms of section 33A of the said Act, and it is proved that the management had not obtained the permission before the termination, the said action of the management shall be treated as if not in existence and the claimant or victim workman should be restored to his original position on the date of termination. The law is well settled that the conditions contain in the proviso to 33(2) of the Act is mandatory and non compliance of the same would rendered the order of dismissal or discharge etc void or inoperative. In the case of Jaipur Zila Sehkari Bank referred supra as well as in the case of **Telephone Industry Limited vs. Prabhakar H Manyare 2003 LLR 68** it has been held that when the management terminates the service of the workman during the pendency of the Industrial dispute without any approval from the competent authority the same shall become void. In this case since, the management opted not to contest there is absolutely no evidence on record to presume that the permission in terms of section 33 of the Id Act was taken by the management before termination of service of the claimant.

As per the claim statement the claimant was working as a casual employee and demanding regularization. During the pendency of the Industrial dispute his service was terminated. In the case of **Deepali GUndu Suarwase vs. Kranti Junior Adhyapak Mahavidyala (2013)10SCC 324** the Hon'ble Supreme Court have held that in cases of wrongful termination of service the reinstatement with continuity of service and back wages is the normal rule. Here is a case where the claimant has adduced uncontroverted evidence that he was under the employment of the management since 01.09.2009 and working as a waiter in its coffee Shop. He was getting remuneration from the management and working under its supervision and control. But his service was illegally terminated w.e.f. 29.04.2017. The claimant has further stated that since the date of termination he is unemployed.

Having regard to the legal position as discussed above and the fact that the claimant was performing the duty as a casual employee of the management he is held entitled to reinstatement into the post with 50% back wage in as much as the termination of the claimant is per-se illegal and the claimant is not gainfully employed anywhere since the date of termination. The claim petition is accordingly answered. Hence, ordered.

ORDER

The complaint filed by the claimant is allowed. The termination of his service during the pendency of the Industrial dispute by the management is held to be illegal. It is directed that the claimant shall be reinstated into the service/post in which he was working on the date of termination and be paid 50% of the back wages according to the last drawn wage. The management is further directed to reinstate the claimant into service within 3 months from the date of publication of the award and pay his arrear back wage @50% of the last drawn wage within one month from the date of reinstatement failing which the amount accrued shall carry interest at the rate of 9% from the date of accrual and till the payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 10 जून, 2022

का.आ. 569.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उप. जीओसी, सीओएस, मुख्यालय दिल्ली क्षेत्र, नई दिल्ली कैंट, नई दिल्ली; कार्यकारी निदेशक, टॉरस स्टेशन कैंटीन, दिल्ली कैंट, के प्रबंधन के संबद्ध नियोजकों और श्री राजेश कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 264/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.06.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-15-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 264/2015) of the Central Government Industrial Tribunal-cum-Labour Court – I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Dy. G.O.C, COS, HQ Delhi Area, New Delhi Cantt, New Delhi.; The Executive Director, Taurus Station Canteen, Delhi and Shri Rajesh Kumar, worker which was received along with soft copy of the award by the Central Government on 08.06.2022.

[No. L-42025/07/2022-15-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour
Court-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 264/2015

Date of Passing Award- 03/06/2022

Between:

Shri Rajesh Kumar,
Billing Operator Taurus Station Canteen,
25 of the Mall, Delhi Cantt-10
R/o House No. D-70,
Madhu Vihar,
Uttam Nagar, (Near Solanki Market)
New Delhi-110059.

...Workman

Versus

1. The Dy. G.O.C, COS, HQ Delhi Area,
New Delhi Cantt,
New Delhi-10.
2. Amit Kabthiyal,
Executive Director,
Taurus Station Canteen,
25 of the Mall, Delhi Cantt-10

...Management

Appearances:-

Shri Sanjay Sharma (A/R) : For the claimant

Shri Santosh Kumar (A/R) : For the Management

AWARD

This is a claim filed by the aggrieved claimant for the illegal termination of his service by the management.

The claim of the claimant in short is that he was appointed as a billing operator at the Taurus Station Canteen situated at Delhi Cantonment under the management No.2 in the year 1986. Since, then he was discharging his duties honestly and diligently. The service of the workman was terminated on 10.07.2015 by the order of the management No.1. Being aggrieved the workman filed an application before the management No.2 on 13.07.2015 demanding supply of all the documents relating to the inquiry, if any conducted against him before the termination of his service. But no reply was given to the said application by the management No.2. The workman again filed a representation on 31.07.2015 before management no.1 demanding copies of the documents leading to the inquiry and order of termination. But the management again maintained silence on the same. The claimant workman thereafter raised a dispute before the conciliation officer challenging his illegal termination. Pursuant to a notice issued by the conciliation officer the management appeared and filed a reply to the statement of claim of the workman. After filing of the rejoinder by the workman steps were taken for conciliation. But for the non cooperation of the management conciliation failed and a failure report was supplied to the workman who, then, approached this tribunal for adjudication on the legality of the order of termination. The claimant has stated that the management No.2 while filing reply before the conciliation officer has stated that the documents demanded by the workman being confidential in nature cannot be provided to the workman who was afforded appropriate opportunity during the conduct of the inquiry against him. The claimant has thus, stated that an illegal order of termination has been passed behind his back

and since the date of termination he is unemployed and the family is starving. The claimant has further stated that a false allegation was made against him that he had sold 97432/- units of liquor fraudulently on fictitious/unauthorized permit slip. He being a billing clerk only was never involved in the unlawful transaction nor had gained anything out of the same. Describing himself as a victim of the circumstance he has prayed for reinstatement in service and grant of all consequential benefits he is entitled to.

The management filed written statement admitting that the workman was appointed on contractual basis by the management and discharging work as the billing clerk since 1986. The management has also admitted that the complainant was found guilty during an inquiry for generating large no. of unauthorized bills which resulted in illegal sale of 97432/-units of liquor. An FIR was lodged against the claimant at Sadar Bazar Police Station and a domestic inquiry was conducted. The said inquiry was conducted fairly and opportunity was granted to him to setup his defence. Since, the termination is a result of the inquiry, no illegality was committed and the claim petition is liable to be rejected. No rejoinder was filed. On the basis of the pleadings the following issues are framed for adjudication.

ISSUES

1. Whether the service of the workman was terminated illegally and whether he is liable to be reinstated into service.
2. Whether the claim is legally maintainable in view of the objections of the respondent.

The claimant Rajesh Kumar testified as WW1 and filed documents which have been marked in a series of WW1/1 to WW1/8. These documents include the order of termination, his representations demanding supply of documents, the statement of claim filed before the conciliation officer the failure report and the reply filed by the management before the conciliation officer. Similarly the management examined Col Harjit Preet Pal Singh as MW1 and produced the documents marked as WW1 (Colly). This is the entire inquiry proceeding and the order of termination passed against the claimant.

At the outset of the argument the Ld. A/R for the claimant submitted that it is the settled position of law that a party to a juridical or quasi judicial proceeding has a right to participate and peruse all the documents and evidence proposed to be used against him. But in this case though the management which is a department of army had conducted a fact finding inquiry against the claimant, very surprisingly he was kept out of the scope and was allowed to remain present as a silent spectator. After the inquiry when he was found guilty, his genuine demand was for supply of the copies. But the same were not supplied which has grossly prejudice him. The other argument is that no fair opportunity was granted to defend his cause and an arbitrary illegal order has been passed. In view of the evidence and the argument advance it is to be examined if the order of termination was illegal and unjustified.

FINDING

ISSUE No.1 and 2.

Both the issues are taken up together for convenience. The claimant in his affidavit has stated that he demanded the copies of the memo showcause notice, article of charges, charge sheet, statement of witnesses and the inquiry report including the final order passed by the disciplinary authority but the management refused to grant on the pretext that the documents are confidential in nature. Thereby the claimant has stated that the Principles of Natural Justice were not followed and the order was illegally passed. He has further stated that for the illegal termination his family is starving as he is not gainfully employed. The witness examined on behalf of the management has stated that he is working as the executive director at Taurus Station Canteen and conversant with the facts of the case. He has stated that an indendent departmental inquiry was conducted to find out the truth relating to the unauthorized generation of bills for sale of huge quantity liquor from the canteen illegally. During the inquiry the claimant was found guilty for generating the said bills as he was then working as the billing clerk. The FIR was lodged for breach of trust conducted by him. With regard to the departmental inquiry he has stated that full opportunity was granted to the claimant during the inquiry for cross examining the witnesses. While filing the copy of the entire disciplinary inquiry proceeding marked as exhibit MW1/1 Colly the witness has stated that the opportunity of participation was never denied nor the Principles of Natural justice was violated. Thus, the management witness has stated that the claim petition is not maintainable.

During course of argument the Ld. A/R for the management submitted that this tribunal cannot act as the appellate authority for the departmental inquiry. The tribunal is empowered to examine the correctness of the procedure and find out if the Principles of Natural Justice were followed.

The document filed as MW1/1 is voluminous and contains 140 pages. The said documents contain the details of the allegation, the statement of the witnesses etc. The proceeding dated 26.11.2014 reveals that on that day the claimant Rajesh Kumar and Lt Col Baldev Singh facing the inquiry were called and afforded the opportunity to cross examined the witnesses. Accordingly both claimant Rajesh Kumar and Baldev Singh had put question to the witnesses as mode of cross examination. The proceeding dated 26.11.2014 further discloses that the statement of the claimant recorded on that day. But the explanation offered by him was not accepted by the management and ultimately he was found guilty. No infirmity otherwise is noticed in the conduct of the departmental inquiry.

This is a case of loss of confidence by the employer on the employee. This tribunal is not authorized to examine the adequacy or correctness of the finding arrived in a departmental inquiry. Thus, after a careful examination of the entire case file inquiry report evidence adduce it is found that no illegality was ever committed during the conduct of the departmental inquiry. Thus from the totality of the evidence available on record it clearly appears that the service of the claimant was terminated pursuant to a departmental inquiry finding him guilty of breach of trust and misconduct. This tribunal finds no reason to hold that the order of termination was illegal. In view of the same the claimant is held not entitled to a relief of reinstatement as claimed by him. Hence, ordered.

ORDER

The claim be and the same is answered against the claimant and he is held not entitled to the relief sought for. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 10 जून, 2022

का.आ. 570.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर डिप्टी जनरल मैनेजर/एचआर, मेट्रो भवन, फायर ब्रिगेड लेन, बाराखम्भा रोड, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और सुश्री शिवानी डे, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ संख्या 266/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06.06.2022 को प्राप्त हुआ था।

[सं. एल-42012/179/2015 -आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 10th June, 2022

S.O. 570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 266/2015) of the Central Government Industrial Tribunal-cum-Labour Court – I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Sr. Deputy General Manager/HR, Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi and Ms. Shivani Dey, worker which was received along with soft copy of the award by the Central Government on 06.06.2022.

[No. L-42012/179/2015 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-I, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 266/2015

Date of Passing Award- 25.05.2022

Between:

Ms. Shivani Dey,
R/o E-64, Gali No.3, Hardev Nagar,
New Delhi-110084.

... Workman

Versus

Shri Rajneesh Pandey,
Sr. Deputy General Manager/HR
Metro Bhawan, Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

... Management

Appearances:-

Shri Ravinder Kumar (A/R) : For the claimant

Shri Pankaj Malik (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Delhi Metro Rail Corporation, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42012/179/2015 (IR(DU)) dated 08/12/2015 to this tribunal for adjudication to the following effect.

“Whether the applicant, Ms. Shivani Dey, should be treated to have been removed from services of inaction of management and non-issue of formal relieving order should be construed to be in service as leave without pay? to what relief is the workman entitled to in view of circumstances of the case?”

The facts pleaded by the claimant in short is that after qualifying in the competitive examination she was appointed as a Customer Relation Assistant in the establishment of DMRC w.e.f 12.02.2010 vide appointment order dated 12.02.2010. The post was carrying the pay scale of Rs. 10170/-18500/-. After her joining she was sent for Service Training at the Training Institute and thereafter posted at a specific metro station. She completed the training program satisfactorily. During the period of training she made an application to the management seeking permission to prosecute her further studies as she had qualified the national eligibility test conducted by the UGC prior to her joining in the organization in DMRC. With a view to complete her PHD course she made an application to the authorities of the management on 23.03.2010 requesting to accord her permission for the same. But no response was ever received from the management in this regard. During her employment though she was very disciplined and had never given any chance to the authorities to raise any complaint against her, for her misfortune one Manish Yadav the then Assistant Manager line 1 of Shashtri Park Metro Station where the claimant was posted, was bent upon to harass her directly or indirectly and being instructed by the Mr. Yadav, his PA too was harassing the claimant. They used to ask her to accompany them to the uniform store after 6.00PM though her duty was ending at 3.00PM. The said harassment continued and finding no other way the claimant had raised objection before the senior officers at Metro Head Quarters. The parents of the claimant had also lodged complaint about the harassment to Shri S.K Sinha the then GM (HR) on 18.10.2010 at Metro Bhawan. Though Mr. Sinha had assured to prevent the harassment, nothing of such kind happened. Rather Mr. Manish Yadav became more furious towards her. Suddenly she was shifted from Shashtri Park Metro Station to Silampur Metro Station which caused inconvenience for her in travelling the distance. On 08.04.2011 the claimant met a complaint in this regard to the GM Mr. S.K Sinha. Being unable to cope with the situation, on 20.06.2011 she met one Amit Kumar Jain the Assistant of the GM Shri S.K Sinha and intimated that for the prevailing circumstances she is not able to continue in DMRC and also apprised that on some earlier occasions the complaint lodged by her remained unheeded. But no action was taken to redress her grievance. Finding no other way she submitted an application on 30.07.2011 to the incharge of Line 2 Chandni Chowk Metro Station intimating that she would not be coming to attend her duty from 01.08.2011. This application was received personally by Shri Ajay Gautam the then station manager line 2 Chandni Chowk. Even though she left the job of DMRC w.e.f 01.08.2011 Manish Yadav and his Associates followed and harassed her. On 12.11.2013 one notice was issued to her through an advocate calling her to show cause as to why administrative authority shall not take action for her unauthorized absence. This notice was issued after a long time since the claimant stopped attending her duty. Thereafter the management passed an office order dated 08.07.2014 by which the service of the claimant was terminated w.e.f 08.07.2014. Before issuing that order of termination the management never took steps of replying to the complaints raised by the claimant against Manish Yadav. The claimant by filing one RTI application short information on the action taken which revealed that no action was ever taken against Manish Yadav on the complaints of the claimant. The claimant has further stated that the action of the management DMRC in terminating his service 3 years after the complaints made by her is illegal and arbitrary and the action violates the Principles of Natural Justice as no domestic inquiry was ever held against her. Finding no other way the claimant raised an industrial Dispute where the conciliation taken up failed and the appropriate government referred the matter for adjudication. In this claim petition the claimant has prayed that for the illegal order of termination she is entitled to reinstatement into service with continuity of service and full back wages from 16.07.2011 and her seniority may be maintained and she be promoted to the next higher grade to which her juniors have already been promoted. She has also advanced the claim for other financial and service benefits due to her.

When notice of the claim was served the management appeared and filed a written statement refuting the stand of the claimant. It has been admitted that the claimant had joined the service of the management as Customer Relation Assistant w.e.f 12.02.2010. The management had to spend a good amount for her training. But soon after joining DMRC i.e. within 2 months she joined a full time PHD Program on 26.03.2010 in Jamia Milia Islamia University without the written permission of the management. While in the service of DMRC not only she joined the full time PHD Program but also started drawing UGC Fellowship unauthorizedly. She voluntarily and unauthorizedly remained absent from duty w.e.f 01.08.2011 and to avoid disciplinary action started leveling charges of harassment

against her superiors which were found baseless. Before obtaining a proper relieving order she joined the PHD Program and went on claiming bonus and other financial benefits from the management. Noticing her unauthorized absence, on 12.11.2013 a notice was served calling her to showcause as to why disciplinary action shall not be taken. But the claimant did not submit any reply. She was then asked to complete the due procedure for acceptance of her resignation and formalities for relieving her from service. Instead of complying the same she went on leveling allegations against the authorities intending to forestall her action of unauthorized absence. While denying the allegations made in the claim petition as baseless the management has stated that the claimant is due to deposit 101281/- to the management as per the terms and condition of her employment. The management has thus, prayed for dismissal of the claim petition.

The claimant filed replication denying the stand taken by the management.

On these rivals pleading the following issues were framed for adjudication.

ISSUES

1. Whether the claim is not legally maintainable in view of the various preliminary objections.
2. In terms of reference.

The claimant then examined herself as WW1 and produced a series of documents marked as WW1/1 to WW1/10. These documents include her appointment letter salary details the letter expressing her desire to resign, the reminder given to the management etc. Similarly on behalf of the management one Rajnish Pandey testified as MW1. When the matter was posted for argument the A/R for the claimant intimated the tribunal that the claimant is no more interested for reinstatement but more interested in getting her terminal benefit like PF, Gratuity, Bonus etc which have not been paid to her so far. In view of the same adjournment was allowed to facilitate conciliation between the parties. Thereafter no conciliation could be effected and the argument was heard. During course of argument the A/R for the management expressed that the management is ready to pay all terminal benefits permissible under law.

FINDING

The admitted facts are that the claimant had joined the service of the management on 12.02.2010 and on 08.04.2011 she submitted a written application expressing her intention to resign from the service of DMRC (Exhibit WW1/3). It is not disputed that after 08.04.2011 she never reported for duty. It is the allegation of the management that for her unauthorized absence and joining full time PHD Program without prior permission her service was terminated in accordance to Rule 19 of the DMRC Service Condition Rules. The claimant during her examination in the tribunal was confronted with the said rule and she admitted the same. Not only that the claimant during cross examination has clearly admitted that she joined the PHD Program on 26.03.2010 and continued till 29.11.2016 and during this period she was drawing the scholarship which was initially Rs. 22000/- per month and increased from time to time and lastly it was Rs. 36000/- per month as a senior Research Fellowship. She has also admitted to have expressed her desire to resign from the service of the management. But during cross examination she stated that at present she is ready and willing to join back the service and her absence was not unauthorized but under intimation and for the mental harassment caused to her. She has also admitted that she joined the PHD Program without the prior permission of the authority. The witness examined on behalf of the management as MW1 is the Senior DGM of HR and his testimony reveals that the claimant had remained absent unauthorizedly w.e.f 01.08.2011. He has stated that showcause notice dated 25.10.2011 and 27.01.2014 were issued to the claimant but she didn't reply. Thus, as per rule 19 of DMRC on service matters her service was terminated. But before that she was asked several times to regularize her resignation procedure and get the relieving order after obtaining NOC from various department of the management. Since, the claimant did not comply the same no relieving order was issued and her service was terminated. For such action taken the management cannot be found with fault. The procedure laid down under Rule 19 has been filed and marked as WW1/M1. Many other documents have been filed and marked as MW1/7, MW1/8 and MW1/9. These documents deal with the representation of the claimant for grant of salary and demanding action on her complaint. All those were duly answered by the management. However, the management witness has stated that the claimant is liable to refund Rs. 1,00,000/- to the management as agreed during the time of employment. Citing the judgment of **Thankur Singh Rawat and others vs. Jagjit Industries Ltd. deciding in W. A No. 585 of 2003** by the Hon'ble High Court of Delhi, the Ld. A/R for the management submitted that the claimant is not entitled to the back wages as claimed by her for the termination of her service.

From the evidence adduced it clearly appears that the claimant has admitted at different stages of the proceeding about her unauthorized absence from duty. She has also admitted about joining the PHD Program with UGC Scholarship while under the employment of DMRC. In such a situation grant of back wages for the said absented period and thereafter during which the claimant had not discharged any work would amount to unjust enrichment which cannot be granted. In the case of **Rajasthan State Road Transport Corporation vs. Phool Chand AIR 2018 SC 4534** the Hon'ble Supreme Court while discussing the case of **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (2013)10SCC324** have observed that the workman cannot claim award of back wages in all the cases. The factors like nature of misconduct are to be considered by the court and the workman cannot claim back wage as the matter of right. In this case since, the claimant had seriously misconducted herself by

remaining absent unauthorizedly and by availing a gainful employment causing unjust enrichment to her she cannot be granted the back wages. However, the management has not disputed the claim of the claimant with regard to her terminal benefits like PF, Gratuity, and bonus and this admission has been recorded by order dated 15.11.2008 passed by this tribunal. Hence, after a careful consideration of the evidence and the materials placed on record it is held that the claimant cannot be held to have been removed from service illegally and the said intervening period between his voluntarily absence and termination cannot be treated as duty without pay. But the claimant is held entitled to the benefits like PF, Gratuity and bonus etc according to her eligibility to be decided by the management. Hence, ordered.

ORDER

The reference be and the same is answered partially in favour of the claimant. it is held that the claimant is not entitled to reinstatement into service with back wages and the period of absence cannot be treated as duty without pay. However, she is entitled to other service benefit like PF, Gratuity and bonus as due to her for the service rendered to the management. The management is directed to settle the dues of the claimant within 3 months from the date of publication of the award. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 13 जून, 2022

का. आ. 571.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या 77/2007) को प्रकाशित करती है।

[सं. एल-41012/115/2007-आईआर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 13th June, 2022

S.O. 571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2007) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Jaipur as shown in the Annexure, in the industrial dispute between the management of West Central Railway and their workmen.

[No. L-41012/115/2007- IR(B-1)]

D. GUHA, Under Secy.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

सी.जी.आई.टी. प्रकरण सं. 77/2007

Reference No. L-41012/115/2007-IR (B-1)

Dated: 30.10.2007

1. श्री केदार नाथ (मृतक) पुत्र श्री भगवत प्रसाद नाई, गाँव— चुरारी डांग, तहसील— रूपवास, भरतपुर, (राजस्थान)।

1/1 श्रीमती राधा देवी पत्नी स्व. श्री केदार नाथ (मृतक) आयु— 54 वर्ष

1/2 रिकू कुमार पुत्र स्व. श्री केदार नाथ (मृतक) आयु— 33 वर्ष

1/3 श्रीमती पिकी पुत्री स्व. श्री केदार नाथ (मृतक) आयु— 29 वर्ष

1/4 शषिकान्त पुत्र स्व. श्री केदार नाथ (मृतक) आयु— 25 वर्ष

1/5 गौरव कुमार पुत्र स्व. श्री केदार नाथ (मृतक) आयु— 17 वर्ष

सभी निवासी— गाँव— चुरारी डांग, तहसील— रूपवास, भरतपुर, (राजस्थान)।

...प्रार्थीगण

बनाम

1. महाप्रबन्धक, पश्चिम मध्य रेलवे, जबलपुर।
2. मण्डल रेल प्रबन्धक, पश्चिम मध्य रेलवे, कोटा।
3. सहायक मण्डल अभियन्ता (मध्य), पश्चिम मध्य रेलवे, कोटा।

...अप्रार्थीगण/विपक्षी

उपस्थित:-

प्रार्थी की ओर से : श्री आर. सी. जैन।

अप्रार्थी की ओर से : श्री आर. एल. मीणा।

: अधिनिर्णय :**दिनांक : 19.05.2022**

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 30.10.2007 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जायेगा) की धारा 10 (1) (डी) व 2। के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :-

"Whether the action of the management of DRM, West Central Railway, Kota in removing from service to Sh. Kedar Nath s/o Shri Bhagwat Prasad Nai w.e.f. 06.09.2003 is legal and justified? If not, to what relief the applicant is entitled?"

2. दिनांक 29.01.2010 को प्रार्थी की ओर से दावे का अभिकथन प्रस्तुत किया गया। प्रार्थी का कथन है कि वह तत्कालीन सहायक मंडल अभियन्ता (मध्य) कोटा के अधीन गैंगमेन के पद पर कार्यरत था। उक्त सहायक मंडल अभियन्ता ने 03.10.1997 को प्रार्थी को आरोप पत्र दिया। इस आरोप पत्र पर अवैध रूप से एकपक्षीय जाँच करते हुए सहायक मंडल अभियन्ता (मध्य) कोटा ने आदेश दिनांक 06.09.2003 द्वारा प्रार्थी को रेल सेवा से हटाये जाने का दण्ड दिया। प्रार्थी को जाँच के दौरान बचाव का मौका नहीं दिया गया। न ही जाँच प्रतिवेदन की प्रति दी गई और अवैध रूप से सेवामुक्त कर दिया। अतः यह घोषित किया जावे कि प्रार्थी के विरुद्ध पारित दण्डादेश अवैध है, इसलिए सेवा में निरन्तरता एवं विगत वेतन परिलाभों सहित सेवा में बहाल किया जावे।

3. विपक्षीगण ने वादोत्तर में वाद के कथनों को अस्वीकार किया और कहा है कि प्रार्थी को बचाव का पूर्ण मौका दिया गया। वह कुछ तिथियों पर जाँच कार्यवाही में उपस्थित नहीं हुआ किंतु अन्य तिथियों पर डाक द्वारा सूचना देने पर भी उपस्थित नहीं हुआ। जाँच रिपोर्ट की प्रति 25.06.2002 को रजिस्टर्ड डाक से प्रार्थी को भेजी गई थी जिसे प्रार्थी ने प्राप्त भी किया। प्रार्थी ने निर्धारित समय में दण्डादेश के विरुद्ध कोई अभ्यावेदन या अपील नहीं की। इसीलिए प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है।

प्रार्थी को विहित नियमों के अन्तर्गत प्रक्रिया का पालन करते हुये सेवा से निष्कासित करने का दण्ड दिया गया। जाँच की शुद्धता पहले तय की जावे और यदि जाँच शुद्ध एवं विधिवत न हो तो विपक्षी को आरोप सिद्ध करने का अवसर दिया जावे। इसलिए वाद स्वीकार किये जाने योग्य नहीं है।

4. दिनांक 16.05.2011 को अधिकरण द्वारा प्रार्थी के विरुद्ध की गई घरेलू जाँच की शुद्धता एवं वैधता का परीक्षण करते हुये प्रार्थी के विरुद्ध की गई जाँच को उचित एवं वैध नहीं पाया गया। तदुपरांत विपक्षीगण को प्रार्थी पर लगाये गये आरोपों पर सिद्ध करने का अवसर दिया गया।

5. विपक्षीगण ने अपने साक्ष्य में श्री के. एस. मीणा सीनियर सेक्शन इंजीनियर एवं श्री ए. के. देवडा कार्यालय अधीक्षक को परीक्षित किया तथा प्रलेखीय साक्ष्य में प्रदर्श ड.1 से प्रदर्श ड.5 तक प्रलेखों को प्रदर्शित किया।

6. तत्पश्चात प्रार्थी ने अपने साक्ष्य में स्वयं प्रार्थी केदारनाथ को दिनांक 07.09.2017 को परीक्षित करवाया, किंतु साक्षी से प्रतिपरीक्षा उसकी मृत्यु के कारण पूर्ण नहीं हो पायी। दिनांक 11.03.2019 को प्रार्थी के प्रतिनिधि ने सूचित किया कि प्रार्थी केदारनाथ की मृत्यु दिनांक 11.09.2018 को हो गई है इसलिये उसके विधिक प्रतिनिधियों को अभिलेख पर ले लिया जावे। विपक्षीगण के अभिभाषक ने इस निवेदन पर अनापत्ति व्यक्त की। अतः मृतक प्रार्थी के स्थान पर उसके विधिक प्रतिनिधियों को अभिलेख पर ले लिया गया। प्रार्थीगण की ओर से कोई साक्ष्य प्रस्तुत नहीं की गई।

7. दिनांक 26.04.2022 को मेनें उभयपक्ष के प्रतिनिधियों के मौखिक तर्क सुने और साक्ष्य का परिशीलन किया।

8. प्रार्थीगण के प्रतिनिधि का यह तर्क है कि विपक्षीगण अपने साक्ष्य से प्रार्थी के विरुद्ध लगाये गये आरोप को प्रमाणित नहीं कर सके हैं। प्रार्थी के विरुद्ध ये आरोप था कि वह 01.01.1995 से 30.09.1997 तक अनाधिकृत रूप से बिना सूचना दिये अवकाश नियमों का पालन न करते हुए अनुपस्थित रहा। वस्तु: प्रार्थी अस्वस्थ होने के कारण इस अवधि में अनुपस्थित रहा जो कि उसके नियन्त्रण में नहीं था। विपक्षीगण के साक्षी श्री के. एस. मीणा ने यह स्वीकार किया है कि इस अवधि के सर्टिफिकेट रेलवे के डाक्टर को प्रार्थी ने पेश किये होंगे। इसी प्रकार साक्षी श्री ए. के. देवडा ने भी यह स्वीकार किया है कि 01.01.1995 से 16.09.1997 तक का चिकित्सा प्रमाणपत्र देने के कारण प्रार्थी को परीक्षण के अन्तर्गत रखा गया। ये चिकित्सा प्रमाणपत्र रिकार्ड पर है, पर उन्हें पेश नहीं किया। इस प्रकार प्रार्थी का उक्त अवधि में अस्वस्थ रहने के कारण अनुपस्थित रहना प्रमाणित होता है, इसलिये उसकी सेवामुक्ति अवैध है।

9. उन्होंने अपने तर्क के समर्थन में निम्नांकित न्यायाधिक दृष्टांत प्रस्तुत किये:-

(1) छैलसिंह बनाम एम. जी. बी. ग्रामीण बैंक, पाली (S.C.) 2014 (142) FLR 624

(2) कृष्णाकांत बी. परमार बनाम यूनियन ऑफ इण्डिया व अन्य (2012) 3 SCC 178

10. विपक्षी की ओर से उनके अभिभाषक का ये तर्क है कि प्रदर्श M.1 ड्यूटी प्रमाण पत्र में वर्णित तथ्य उन्हें स्वीकार है। जिसमें प्रार्थी को 16.09.1997 से 30.09.1997 तक परीक्षण के अंतर्गत रखा गया और उसे स्वस्थ पाने पर 01.10.1997 को कार्य करने के लिए समर्थ पाया गया। किंतु इससे ये तात्पर्य नहीं निकलता है कि 16.09.1997 से पूर्व की अवधि में प्रार्थी अस्वस्थ रहने के कारण उपस्थित नहीं हो पाया। प्रार्थी ने अवकाश नियमों के अनुरूप न तो स्वयं के बीमार होने की सूचना दी, ना ही मुख्यालय से अनुपस्थित हो जाना संबंधित पर्यवेक्षक को सूचित किया। इसलिए प्रार्थी के विरुद्ध स्वेच्छया अपने कर्तव्य से अनुपस्थित रहने का आरोप प्रमाणित होता है। प्रार्थी केदारनाथ से की गई प्रतिपरीक्षा दिनांक 07.09.2017 को अपूर्ण रही है इसलिए केदारनाथ के कथन साक्ष्य में ग्रहण किसे जाने योग्य नहीं है। विपक्षीगण ने अपने साक्ष्य से प्रार्थी के विरुद्ध आरोप को प्रमाणित कर दिया है अतः वाद अस्वीकार किया जावे।

11. उभयपक्ष के तर्कों पर मनन के उपरांत निम्नलिखित बिचारणीय बिन्दुओं पर विनिश्चय किया जा रहा है :—

(1) **क्या विपक्षीगण अपने साक्ष्य से प्रार्थी के विरुद्ध आरोपित दुराचरण को प्रमाणित करने में सफल रहे हैं?**

(i) प्रार्थी के विरुद्ध यह आरोप लगाया गया है कि “आप दिनांक 01.01.1995 से 30.09.1997 तक अनाधिकृत रूप से कार्य से अनुपस्थित रहें जिस की सूचना आपने संबंधित पर्यवेक्षक को नहीं दी जबकि सूचना देना नियमानुसार आवश्यक है इसलिए आप को अनाधिकृत रूप से कार्य से अनुपस्थित रहने तथा छुट्टी के नियमों का पालन न करने का दोषी ठहराया जाता है।” विपक्षीगण ने इस आरोप को प्रमाणित करने हेतु अधिकरण के समक्ष श्री के. एस. मीणा एवं ए. के. देवडा साक्षीगण को परीक्षित किया है। अपने प्रतिपरीक्षण में श्री के. एस. मीणा ने यह कहा है कि दिनांक 01.01.1995 से 16.09.1997 तक की अवधि में सर्टिफिकेट रेलवे के डाक्टर को पेश किये होंगे। साक्षी ने प्रदर्श M.1 एवं प्रदर्श M.2 प्रलेखित किये हैं। जिसमें प्रार्थी को 16.09.1997 से 30.09.1997 तक परीक्षण के अधीन रखना और 01.10.1997 को उसे स्वस्थ होना अंकित किया गया है। साक्षी ए. के. देवडा ने अपने प्रतिपरीक्षण में यह कहा है कि प्रदर्श M.1 के अनुसार प्रार्थी को 01.10.1997 को ड्यूटी पर लिया गया था। साक्षी ने विवादित अवधि 01.01.1995 से 16.09.1997 के संबंध में यह महत्वपूर्ण स्वीकारोक्ति की है कि 01.01.1995 से 16.09.1997 तक के मेडीकल सर्टिफिकेट जो प्रार्थी ने पेश किये हैं वे रिकार्ड पर हैं, जिन्हें पेश नहीं किया है। साक्षी ने यह भी कहा है कि कोई भी व्यक्ति जब बीमारी के कारण अवकाश पर रहता है, ओर प्राईवेट डाक्टर का सर्टिफिकेट लाता है तो ऐसी स्थिति में फिट होने के लिए रैफर कर दिया जाता है। प्रदर्श M.1 द्वारा प्रार्थी को रैफर किया गया था, डाक्टर ने फिट पाया इसलिए उसे ड्यूटी पर ले लिया। साक्षी की इस महत्वपूर्ण स्वीकारोक्ति से प्रार्थी के इस कथन को पुष्टि प्राप्त होती है कि वह रेस्ट करने के लिये अपने गाँव गया था वहाँ उसकी तबियत खराब होने से प्राईवेट डाक्टर से इलाज करवाया था। साक्षी के. एस. मीणा ने यह स्वीकार किया है कि 01.01.1995 से 16.09.1997 की अवधि प्राईवेट डाक्टर द्वारा दी गई अवधि हो सकती है। यहां यह उल्लेख करना भी आवश्यक है कि 16.09.1997 को प्रार्थी रेलवे के चिकित्सक के समक्ष उपस्थित हो गया था उसे परीक्षण के अंतर्गत रखा गया था फिर भी विपक्षीगण द्वारा प्रार्थी को 30.09.1997 तक कर्तव्य से अनुपस्थित मान लिया गया। इस विवेचन से यह निष्कर्षित होता है कि प्रार्थी 01.01.1995 से 30.09.1997 तक अस्वस्थ रहा और उसने अपने चिकित्सा प्रमाण पत्र विपक्षीगण द्वारा अधिकृत चिकित्सक के समक्ष प्रस्तुत भी किये। इन चिकित्सा प्रमाणपत्रों को अभिलेख पर प्रार्थी द्वारा प्रस्तुत किया जाना विपक्षी साक्षी की स्वीकृति है, किंतु उन्हें साक्ष्य में प्रस्तुत नहीं किया गया है। इस विवेचन से यह स्पष्ट होता है कि प्रार्थी की 01.01.1995 से अनुपस्थिति स्वैच्छिक न होकर अस्वस्थ होने के आधार पर उसकी विवशता एवं परिस्थितियोंवश थी। माननीय सर्वोच्च न्यायालय ने अपने निर्णय कृष्णा कांत बी. परमार बनाम यूनियन ऑफ इण्डिया व अन्य में यह कहा है कि स्वैच्छिक अनुपस्थिति के आरोप को सिद्ध करने के लिए यह प्रमाणित करना आवश्यक है कि कर्मचारी स्वेच्छया अनधिकृत रूप से अनुपस्थित रहा। यदि अनुपस्थिति किसी बाध्यकारी परिस्थिति के कारण रही हो जिसके चलते वह कर्तव्य पर उपस्थित नहीं हो सका हो तो कर्मचारी को स्वैच्छिक अनुपस्थिति का दोषी नहीं ठहराया जा सकता।

(ii) माननीय सर्वोच्च न्यायालय ने अपने निर्णय छैलसिंह बनाम एम. जी. बी. ग्रामीण बैंक, पाली में यह अवधारित किया है कि जब मुख्य आरोप बिना अनुमति 10 1/2 महीने तक अनुपस्थित रहने के संबंध में हो तथा कर्मचारी यह दावा करें कि वह बीमार था और 24 दिन पश्चात चिकित्सीय प्रतिवेदन प्रस्तुत करे, तो ऐसी स्थिति में किसी प्रतिकूल साक्ष्य के अभाव में जॉच अधिकारी या अनुशासनिक प्राधिकारी ऐसे चिकित्सा प्रमाणपत्रों पर मात्र 24 दिन के विलम्ब के कारण अविश्वास नहीं कर सकते हैं। इन दोनों निर्णयों में माननीय सर्वोच्च न्यायालय द्वारा पारित अधिमत के प्रकाश में यह स्पष्ट हो जाता है कि प्रार्थी ने 01.01.1995 से 16.09.1997 तक अस्वस्थ रहने संबंधी चिकित्सीय प्रमाण पत्र विपक्षीगण को प्रस्तुत किये किंतु उन्होंने उन प्रमाणपत्रों को विचारित न करते हुये प्रार्थी को अकारण एवं निराधार अनुपस्थित रहना प्रमाणित मान लिया। प्रार्थी की अनुपस्थिति इस प्रकार स्वैच्छिक न होकर उसकी बीमारी के कारण होना साक्ष्य से प्रमाणित होता है।

(iii) इस विवेचन के उपरांत विपक्षीगण प्रार्थी के विरुद्ध बिना अनुमति प्राप्त किये स्वेच्छया अनुपस्थित रहने का आरोप प्रमाणित करने में सफल नहीं हुये हैं। इसलिए प्रार्थी के विरुद्ध दिनांक 06.09.2003 को सेवा से पृथक करने का विपक्षी का आदेश वैध एवं न्यायोचित नहीं है। अतः यह विचारणीय बिन्दु प्रार्थीगण के पक्ष में विनिश्चित किया जाता है।

बिन्दु सं.-2

अनुतोषः—यह विवादित नहीं है कि प्रार्थी केदारनाथ की मृत्यु के संबंध में प्रस्तुत किये गये मृत्यु प्रमाणपत्र के अनुसार उसकी मृत्यु 11.09.2018 को हो चुकी है। विचारणीय बिन्दु सं. 1 पर पारित विनिश्चय के अनुसार प्रार्थी के विरुद्ध

पारित सेवा समापन का आदेश दिनांक 06.09.2003 अपास्त किये जाने योग्य प्रमाणित हुआ है। इसलिए प्रार्थी के विरुद्ध पारित सेवासमाप्ति आदेश दिनांक 06.09.2003 को अवैध घोषित करते हुये अपास्त किया जाता है। इस स्थिति में प्रार्थी (मृतक) दिनांक 06.09.2003 से उसकी सेवा निवृत्ति तिथि अथवा मृत्यु की तिथि जो भी पूर्ववर्ती हो से पुनः सेवा में स्थापित किये जाने योग्य प्रमाणित होता है। किन्तु मृत्यु हो जाने के कारण उसकी सेवा में पुनर्स्थापना संभव नहीं रही है। प्रार्थी ने अपने दावे के अभिकथन में सेवामुक्ति के उपरांत बेरोजगार रहना कहा है। इस अभिकथन का कोई विशिष्ट खण्डन विपक्षीगण द्वारा नहीं किया गया है और मात्र यह कहा गया है कि पैरा सं. 8 वाद पत्र के तथ्य उन्हें अस्वीकार हैं। इस स्थिति में यह प्रमाणित मान लेना उचित है कि प्रार्थी सेवामुक्ति की तिथि से मृत्यु पर्यन्त बेरोजगार रहा था एवं उसने कोई लाभप्रद धनार्जन नहीं किया था। इस तथ्यात्मक परिदृश्य में मृतक प्रार्थी को दिनांक 06.09.2003 से सेवा निवृत्ति की तिथि (जो कि अधिकरण के अभिलेख पर नहीं है) या मृत्यु की तिथि जो भी पूर्ववर्ती हो तक विगत वेतन, पारिणामिक परिलाभ विपक्षीगण से प्राप्त करने का अधिकारी मानते हुये उक्त वेतन व परिलाभ, प्रार्थीगण जो कि मृतक केदारनाथ के विधिक प्रतिनिधि एवं उत्तराधिकारी है, को दिलवाया जाना न्यायोचित है। प्रार्थी की सेवा निवृत्ति/मृत्यु के उपरांत मृतक प्रार्थी की पत्नि श्रीमती राधा देवी विपक्षी के सेवा नियमों के अन्तर्गत पारिवारिक पेन्शन एवं अन्य सभी देय परिलाभ प्राप्त करने की अधिकारी होंगी। विपक्षीगण इस अधिनिर्णय की अनुपालना 3 माह की अवधि में करें। अन्यथा प्रार्थीगण देय राशि पर 6 प्रतिशत ब्याज भी प्राप्त करने के अधिकारी होंगे।

12. संदर्भित विवाद का इसी प्रकार न्यायनिर्णयन किया जाता है।

13. अधिनिर्णय की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 14 जून, 2022

का.आ. 572.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, **गेल (इंडिया) लिमिटेड** के कारखानों और स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रचालन से छूट प्रदान करती है। यह छूट राजपत्र में इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए प्रभावी रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) कारखाना और स्थापना छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेगी;
- (2) कर्मचारी उक्त अधिनियम के अधीन ऐसे फायदे प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट प्रदान करने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने और स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रचालन के अधीन था ऐसी विवरणियां, ऐसे प्ररूप में और ऐसी विशिष्टियों से युक्त होगी जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) उक्त अधिनियम की धारा 45 की उप धारा (1) के अधीन निगम द्वारा नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या इस प्रयोजन के लिए निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी—
 - (i) उक्त अधिनियम की धारा 44 की उप धारा (1) के अधीन, उक्त अवधि के लिए प्रस्तुत किसी विवरण में अंतर्विष्ट विशिष्टियों को सत्यापित करने; या
 - (ii) यह अभिनिश्चयन के लिए कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

- (iii) यह अभिनिश्चयन के लिए कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या
- (iv) यह अभिनिश्चयन के लिए कि उस अवधि के दौरान, जब उक्त कारखाने और स्थापना के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं,

निम्नलिखित कार्य करने के लिए सशक्त होगा-

- (क) प्रधान या अत्यवहित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे इस अधिनियम के प्रयोजन के लिए आवश्यक समझता है; या
 - (ख) ऐसे प्रधान या अत्यवहित नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
 - (ग) प्रधान या अत्यवहित नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
 - (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
 - (ङ) यथास्थिति अन्य शक्तियों का प्रयोग करना।
- (6) विनिवेश या निगमीकरण के मामले में, प्रदान की गई छूट स्वतः रद्द हो जाएगी और तब नई इकाई को छूट के लिए समुचित सरकार को आवेदन करना होगा।

[सं. एस-38014/03/2021-एस.एस-1]

मदन चौरसिया, अवर सचिव

New Delhi, the 14th June, 2022

S.O. 572.—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of factories and establishments of **GAIL (India) Limited** from the operation of the said Act. The exemption shall be effective for a period of one year from the date of publication of this notification in the Official Gazette.

2. The exemption is subject to the following conditions, namely:—

- (1) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees;
- (2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;
- (3) the contribution for the exempted period, if already paid, shall not be refundable;
- (4) the employer of the said factory and establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such

returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

- (5) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it, shall, for the purpose of —
- (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment to be empowered to —
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises; or
 - (e) exercise such other powers as may be specified.
- (6) in case of disinvestment or corporatisation, the exemption granted shall stand cancelled and then the new entity may apply to the appropriate Government for exemption.

[No. S-38014/03/2021-SS-I]

MADAN CHAURASIA, Under Secy.

नई दिल्ली, 14 जून, 2022

का.आ. 573.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट के संदर्भ (संख्या 4/2020) को प्रकाशित करती है।

[सं. एल-12011/65/2019-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 14th June, 2022

S.O. 573.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/65/2019-IR(B-1)]

D .GUHA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/4/2020

Present: P. K. Srivastava, H.J.S..(Retd)

The General Secretary
Dainik Vetan Bhogi Bank Karmchhari Sangathan,
F-1.Tripti Vihar, Opp. Engineering College,
Ujjain (M.P.)

...Workman

Versus

The Assistant General Manager,
State Bank of India,
Regional Office-V
Bhopal (M.P.)

...Management

AWARD

(Passed on 10th day of May-2022)

As per letter dated 23/12/2019 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L 12011/65/2019-IR(B-1)The dispute under reference relates to:

“Whether the demand of the Trade Union Dainik Vetan BhogiBank karmachari Sangathan claiming difference of wages w.e.f. 1-4-2007 to 12-8-2015 in favour of Shri hansraj Sher daily wage workman is justified or not? If so, what relief the daily wager is entitled for? .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. Inspite of service on parties, the workman never appeared. None of the parties have filed any statement of claim/defence inspite of sufficient time given to them.
3. Since the burden to prove the claim is on the workman in which he has miserably failed. May be the workman is not interested in pursing his claim.
4. Accordingly the reference deserved to be answered against the workman and is answered against the workman.
5. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 जून, 2022

का.आ. 574.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 152/2017) को प्रकाशित करती है।

[सं. एल-41011/51/2016-आईआर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 14th June, 2022

S.O. 574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.152/2017) of the *Cent.Govt. Indus. Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/51/2016- IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/152/2017

Present: P. K. Srivastava, H.J.S. (Retd)

The Divisional Secretary,
 Paschim Raulway Karmachari Parishad
 C/o DRM, DO Batti
 Ratlam (M.P.)

...Workman

Versus

The DRM Western Railway,
 Ratlam (M.P.)

...Management

AWARD

(Passed on 12-5-2022)

As per letter dated 4/12/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-41011/51/2016-IR(B-1). The dispute under reference relates to:

“Whether the action of the management of DRM Western Railway, Ratlam, in denying family pension to Ku. Kusum Ben D/o late Shri Valabhai from 25-10-2002 is justified & legal ? Whether or not she is entitled for family pension from the year 2002? If yes, what relief, with regard to late payment of family pension, Ku. Kusum Ben is entitled to?”.”

1. After registering the case on the basis of reference, notices were sent to the parties. In spite of service, none appeared for the workman. No statement of claim was filed by the workman. The Management has also not filed its statement of defence.
2. The case proceeded Ex-parte against the workman vide order dated 4-1-2022. Shri R.K. Soni, learned counsel for the Management was present.
3. **The Reference is the issue for determination in the case in hand.**
4. The initial burden to prove the claim is on workman. In absence of any statement of claim or evidence, in support of the workman, the workman is held to have failed in discharging its burden.
5. In the light of the above discussion, holding the claim of workman not proved, the reference deserves to be answered against the workman.
6. Accordingly the following award is passed:-
 - A. **The action of the management as mentioned in the reference is held to be legal and justified.**
 - B. **The workman is held entitled to no relief.**
7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 15 जून, 2022

का.आ. 575.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट इंडिया सैट्स एयरपोर्ट सर्विस लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, एर्नाकुलम, कोचीन के पंचाट (संदर्भ संख्या 35/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.06.2022 को प्राप्त हुआ था।

[सं. एल-11012/10/2020-आईआर (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 15th June, 2022

S.O. 575.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2020) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, COCHIN as shown in the Annexure, in the industrial dispute between the Management of Air INDIA SATS AIRPORT SERVICES Pvt. LTD. and their workmen, received by the Central Government on 14.06.2022.

[No. L-11012/10/2020 – IR (CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT,
ERNAKULAM**

Present: Shri. V. Vijaya Kumar, B. Sc, LL.M, Presiding Officer
(Thursday the 21st day of April, 2022, 1 Vaisakha 1944)

ID No. 35/2020

Workmen : The General Secretary
Kerala Pradesh Airport Casual Mazdoor Sangham (BMS)
Mazdoor Bhavan
Karamana
Trivandrum- 695002

Management : The Vice President (Ground Handling)
Air India SATS Airport Services Pvt. Ltd.
1st Floor, Panachimoottil Square
Vallakkadavu P.O.
Eanchakkal
Trivandrum - 695008
Adv. Shameem Ahamed M.P.

This case coming up for final hearing on 21.04.2022 and the same day this Industrial Tribunal-cum-Labour Court passed the following:

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No. L-11012/10/2020-IR(CM-I) dt.16.10.2020 referred the following dispute for adjudication by this Tribunal.
2. The dispute referred is;
“Whether the action of the management of Air India Sats Airport Services Pvt. Ltd. in terminating the services of Mr. Sabu B., Mr. Shyam Kumar, Mr. Deepak and Mr. Binu S.U. without adhering to Section 25F of Industrial Disputes Act, 1947 is right and justified ? If not what relief they are entitled to ?”
3. After receipt of the reference from Govt. of India, notices were issued to the Union as well as the Management. Initially there was no representation from either of the parties and no claim is filed. On 09.08.2021 the Counsel for the Management entered appearance and informed that the issue involved in the reference is settled out of Court. The Management Counsel was requested to file a memo to that effect or to file a copy of the settlement in the proceedings. On 03.09.2021 the learned Counsel for the Management sought time for filing a copy of the settlement. Thereafter there is no representation either for the Management or the Union and no claim statement is filed by the Union even on 21.04.2022. Hence it is felt that the Union is not interested in prosecute the reference.
4. Hencea “no dispute award” is passed holding that there is no dispute regarding the claim of the Union.
The award will come into force one month after its publication in the official Gazette.
Dictated to the Personal Assistant, transcribed and passed by me on this the 21st day of April, 2022.

V. VIJAYA KUMAR, Presiding Officer

नई दिल्ली, 15 जून, 2022

का.आ. 576.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई, अलीगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 82/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.06.2022 को प्राप्त हुआ था।

[सं. एल-22011/45/2019-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 15th June, 2022

S.O. 576.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2019) of the Central Government Industrial Tribunal-cum-Labour Court, LUCKNOW as shown in the Annexure, in the industrial dispute between the Management of F.C.I. ALIGARH and their workmen, received by the Central Government on 14.06.2022.

[No. L-22011/45/2019 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 82/2019

Ref. No. L-22011/45/2019-IR(CM-II) dated 25.11.2019

BETWEEN :

The President
Bhartiya Khadya Nigam Shramik Sangh
A-Block Rajajipuram
Lucknow – 226017.

AND

1. The Managing Director, Food Corporation of India
16-20, Barakhambha Lane, Delhi – 110001
2. The General Manager, FCI
TC-3V, Vibhuti Khand, Lucknow – 226010
3. The Divisional Manager, FCI, Aligarh (UP) – 202001.
4. The Manager (Depot), FCI
Old and New Food Storage Depto, Koshikala, Mathura (UP) – 281001

AWARD

1. By order No. L-22011/45/2019-IR(CM-II) dated 25.11.2019 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication .

2. The reference under adjudication is:

1. *“1. WHETHER THE SAID 210 WORKERS OF KOSHI KALAN DEPOT OF FCI MATHURA ARE ENTITLED FOR RE-INSTATING ALONG WITH FULL BACK WAGES AS BOTH THE UNIONS APPROACH FOR THE SAME INTEREST.”*
2. *“2. WHETHER THE ACTION OF THE MANAGEMENT OF FCI, ALIGARH TO TERMINATE THE SAID WORKERS BY VIOLATING CONTRACT OF EMPLOYMENT WHICH AFFECTS THE WORKERS WOULD ENTITLED THEM TO FULL BACK WAGES IS JUSTIFIED IN THE EYE OF LAW OR NOT. IF SO, WHAT RELIEF THE CONCERNED WORKMEN ARE ENTITLED TO?”*

3. The order of reference was endorsed to the President, Bhartiya Khadya Nigam Shramik Sangh, A-Block Rajajipuram Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and

also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in the Tribunal on 03.12.2019 and the office was directed to issue registered notice to the workmen's union for filing the statement of claim with list of documents & list of witnesses on 07.01.2020. On the date fixed i.e. 07.01.2020 none turned up on behalf of the union; whereas the management appeared and filed its authority. However, the envelope containing notice to the workmen's union had been received back in the office unserved with remark 'incomplete address, returned to the sender', therefore, the service of notice was sufficiently presumed. Further dates were fixed in the interest of justice for filing of statement of claim. The workmen union remained absent on 20.03.2020, 10.06.2020, 16.10.2020, 12.01.2021, 25.02.2021, 27.04.2021, 01.09.2021, 16.11.2021, 10.02.2022 and 18.02.2022. The union neither turned up on any of the aforementioned dates nor moved any application for adjournment seeking time to file the statement of claim. More than two years' time has passed and the workmen's Union has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workmen's Union to prosecute the case.

5. In the above circumstances, it appears that the workmen's Union does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workmen's union. Resultantly, no relief is required to be given to the workmen concerned. The reference under adjudication is answered accordingly.

6. Award as above.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 15 जून, 2022

का.आ. 577.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी.आई. अलीगढ़ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 81/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.06.2022 को प्राप्त हुआ था।

[सं. एल-22011/43/2019-आईआर (सीएम-2)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 15th June, 2022

S.O. 577.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2019) of the Central Government Industrial Tribunal-cum-Labour Court, LUCKNOW as shown in the Annexure, in the industrial dispute between the Management of F.C.I. ALIGARH and their workmen, received by the Central Government on 14.06.2022.

[No. L-22011/43/2019 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM-LABOUR COURT LUCKNOW

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 81/2019

Ref. No. L-22011/43/2019-IR(CM-II) dated 4.10.2019

BETWEEN :

The President
 Bhartiya Khadya Nigam Shramik Sangh
 A-Block Rajajipuram
 Lucknow – 226017.

AND

1. The Managing Director, Food Corporation of India
 16-20, Barakhambha Lane, Delhi – 110001
2. The General Manager, FCI
 TC-3V, Vibhuti Khand, Gomti Nagar, Lucknow – 226001
3. The Divisional Manager, FCI, Aligarh (UP) – 202001.
4. The Manager Director, FCI
 16-20, Barakhambha Lane, Delhi - 110001

AWARD

1. By order No. L-22011/43/2019-IR(CM-II) dated 4.10.2019 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

- “1. *WHETHER THE SAID WORKERS ARE ENTITLED FOR RE-INSTATING ALONG WITH FULL BACK WAGES AS BOTH They approach both the unions for the same interest.*”
2. *WHETHER THE ACTION OF THE MANAGEMENT TO TERMINATE THE SAID WORKERS BY VIOLATING CONTRACT OF EMPLOYMENT WHICH AFFECTS THE WORKERS WOULD ENTITLED THEM TO FULL BACK WAGES IS JUSTIFIED IN THE EYE OF LAW OR NOT. IF SO, WHAT RELIEF THE CONCERNED WORKMEN ARE ENTITLED TO?*”

3. The order of reference was endorsed to the President, Bhartiya Khadya Nigam Shramik Sangh, A-Block Rajajipuram Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

5. The order of reference was registered in the Tribunal on 05.11.2019 and the office was directed to issue registered notice to the workmen's union for filing the statement of claim with list of documents & list of witnesses on 30.12.2019. On the date fixed i.e. 030.12.2019 none turned up on behalf of the union; whereas the management appeared and filed its authority. However, the envelope containing notice to the workmen's union had been received back in the office unserved with remark 'incomplete address, returned to the sender', therefore, the service of notice was sufficiently presumed. Further dates were being fixed in the interest of justice for filing of statement of claim. The workmen's union remained absent on 09.06.2020, 15.10.2020, 20.01.2001, 23.02.2021, 15.04.2021, 23.06.2021, 12.08.2021, 03.11.2021, 31.01.2022, 26.04.2022, 06.05.2022 and 20.05.2022. The union neither turned up on any of the aforementioned dates nor moved any application for adjournment seeking time to file the statement of claim. More than two years' time has passed and the workmen's Union has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workmen's Union to prosecute the case.

5. In the above circumstances, it appears that the workmen's Union does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workmen's union. Resultantly, no relief is required to be given to the workmen concerned. The reference under adjudication is answered accordingly.

6. Award as above.

SOMA SHEKHAR JENA, Presiding Officer